DOCUMENT RESUME

ED 290 539 PS 017 027

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TITLE	School Improvement Act of 1987. House of Representatives, 100th Congress, 1st Session. Report Together with Additional Views To Accompany H.R. 5.
INSTITUTION	Congress of the U.S., Washington, D.C. House Committee on Education and Labor.
REPORT NO	House-R-100-95
PUB DATE	15 May 87
NOTE	318p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC13 Plus Postage.
DESCRIPTORS	*Educational Improvement; *Educational Legislation; Elementary Secondary Education; *Federal Legislation; *Federal Programs; *Public Schools
IDENTIFIERS	Amendments; Legislative History; *Reauthorization Legislation

ABSTRACT

The School Improvement Act of 1987 revises and extends through 1993 the 14 following Federal elementary and secondary education programs: (1) Chapter 1 of the Education Consolidation and Improvement Act (ECIA), compensatory education for disadvantaged children; (2) Chapter 2 of ECIA, elementary and secondary education block grants to States; (3) Title II of the Education for Economic Security Act (EESA), the mathematics and science education program; (4) The Adult Education Act for adult literacy; (5) The Magnet Schools Assistance Program (Title VII of EESA); (6) The Drug-Free Schools and Communities Act of 1986; (7) The Women's Educational Equity Act; (8) The Allen J. Ellender Fellowship Program; (9) The Emergency Immigrant Education Act; (10) the territorial assistance programs for teacher training and general assistance to the Virgin Islands; (11) the Excellence in Education demonstration grant program (Title VI of EESA); (12) the Bilingual Education Act; (13) the various Indian Education programs; (14) and the Impact Aid program of assistance to schools in Federally-affected areas. In addition, the legislation: (1) creates a new program for gifted and talented children's education; (2) focuses new resources on dropout prevention, secondary school basic skills improvement, and preschool education; and (3) makes revisions in the Federal processes of auditing education and gathering statistics. This report to the 100th Congress includes the bill, as amended, additional views on the legislation, and a cost estimate of the Congressional Budget Office. (RH)

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100TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
100-95

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SCHOOL IMPROVEMENT ACT OF 1987

MAY 15, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAWKINS, from the Committee on Education and Labor, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 5]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor to whom was referred the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, having considered the same, report favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

SUMMARY OF THE LEGISLATION

H.R. 5, the School Improvement Act, is the most far-reaching education bill of the decade. It makes good on the Federal promise to join with States and local school districts in enhancing the quality of our Nation's elementary and secondary schools. It does so by offering a package of programs that collectively reaffirm the twin Federal commitments to: (1) access to quality education for disadvantaged students and other students with special needs; and (2) excellence in education for the Nation as a whole.

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H.R. 5 is an omnibus bill. It extends and revises the 14 following Federal elementary and secondary education programs that are slated to expire in fiscal years 1987, 1988, or 1989:

Chapter 1 of the Education Consolidation and Improvement Act (ECIA), compensatory education for disadvantaged children (formerly Title I of the Elementary and Secondary Education Act);

Chapter 2 of ECIA, elementary and secondary education block grants to States;

Title II of the Education for Economic Security Act (EESA), the mathematics and science education program;

The Adult Education Act for adult literacy;

The Magnet Schools Assistance program (Title VII of EESA);

The Drug-Free Schools and Communities Act of 1986;

The Women's Educational Equity Act;

The Allen J. Ellender Fellowship program;

The Emergency Immigrant Education Act;

The territorial assistance programs for teacher training and for general assistance to the Virgin Islands;

The Excellence in Education demonstration grant program (Title VI of EESA);

The Bilingual Education Act;

The various Indian Education programs; and

The Impact Aid program of assistance to schools in Federally-affected areas.

In addition, the legislation:

Creates a new program for gifted and talented children's education;

Focuses new resources on dropout prevention, secondary school basic skills improvement, and preschool education; and

Makes overdue revisions in the Federal education auditing and statistics-gathering processes.

All of these programs are extended through fiscal year 1993, so that they will expire at the same time and can be considered comprehensively in future reauthorizations. Throughout the 1970's, most of the Federal elementary and secondary programs did expire concurrently; however, the enactment of ECIA in 1981 put several of the programs on different authorization schedules. The Committee bill will reinstate the comprehensive approach.

The Committee proposes H.R. 5 at a time when interest in education is high. During the past five years, a plethora of national reports has made numerous recommendations to improve our schools. The public has demanded reform and supported fiscal and legislative measures to accomplish it. In fact, a recent Louis Harris poll showed that 77% of the public said they would pay higher taxes to improve education. State and local governments have responded to and in some cases been at the forefront of the call for educational reform, enacting comprehensive legislative packages.

The Committee believes that now it is the right time for the Federal government to fulfill its role in education reform, as delineated in the following education reform reports:

> The Federal government, in cooperation with States and localities, should help meet the needs of key groups of stu-

> dents such as the gifted and talented, the socioeconomically disadvantaged, minority and language minority students, and the handicapped.
>
> (A Nation At Risk, report of the National Commission on Excellence in Education.)
>
> Federally-supported remedial programs, most of which have been concentrated in the early grades, have demonstrated that improvement can be made in the academic achievement of even the most disadvantaged child. We recommend, therefore, that the federally-funded Elementary and Secondary Education Act (Title I) be fully funded to support all students who are eligible to participate in this effective program.
>
> (High School, report of the Carnegie Foundation for the Advancement of Teaching.)
>
> This is no time for the federal government to shirk these responsibilities, or to shrink suddenly from the issue of education as a national priority. The federal government's role, to be sure, is a supporting role. But that role is essential.
>
> (Action for Excellence, report of the Education Commission for the States' Task Force on Education for Economic Growth.)
>
> The federal government must continue to help meet the special needs of poor and minority students while taking the lead in meeting the general and overwhelming need for educational quality.
>
> (Making the Grade, report of the Twentieth Century Fund Task Force on Federal Elementary and Secondary Education Policy.)

H.R. 5 embodies these principles of promoting access and excellence. The Federal commitment to access for special needs students is underscored through the continuation of the Chapter 1 program, the largest Federal elementary and secondary program, as the cornerstone of this reauthorization. In the bill, the central purpose of Chapter 1—educating low-achieving students in poor areas, a goal in which the Federal government has been extremely successful—remains the same and, in fact, is strengthened through provisions to target more funds on the neediest areas and to expand the program to the preschool and secondary school levels. In connection with this targeting on secondary schools, the bill adds a new initiative for dropout prevention programs. The bill also seeks to improve the quality of Chapter 1 programs by instituting new provisions to hold schools more accountable for the outcomes of Chapter 1 and to encourage successful programs.

H.R. 5 would expand access to special needs groups in other ways, too. The adult education section of the bill focuses additional dollars on the most disadvantaged, illiterate adults. The bilingual education program for students with limited-English-proficiency is improved and expanded. The bill also reauthorizes other equity-related programs: the Women's Educational Equity Act to provide demonstration grants for developing model programs and materials; education for immigrant children; the magnet schools program to help districts meet their desegregation needs with schools that attract students from throughout the school district; and the several Indian education programs to address the particular problems of Native American students.

H.R. 5 contains several components aimed at generally upgrading the quality of instruction of our nation's schools. The Chapter 2 block grant is refocused in a way that makes clear that these funds are to be on the cutting edge of educational improvement in the school district; Chapter 2 is the pot of money to be used to help school districts implement innovative programs or make special instructional purchases that they do not have the local funds to support. Another noteworthy "excellence" program in the bill is the mathematics and science education program in Title II, which authorizes funds for teacher training and other activities to strengthen math and science instruction. Finally, the bill institutes a new authorization for education of gifted and talented children.

The bill accomplishes these ends without an excessive amount of administrative burden or an undue hampering of local flexibility. In fact, several provisions of the bill—the new schoolwide projects option in Chapter 1 and the new program improvement thrust in Chapter 2, for example—are intended to maximize local flexibility, with the understanding that the programs are expected to show results. Local complaints about administrative complexity will also be reduced by the long-awaited audit reform and statistics reform amendments contained in Title IX of H.R. 5.

The Committee hopes that with the enactment of H.R. 5, the Federal Government will become a better partner in education. Federal funding for elementary and secondary education suffered severe budget cuts in the early 1980's; even after the budget reductions leveled off, several years of static budgets meant that these programs lost ground to inflation. In general, the Federal contribution to public education spending declined from 9% in 1980 to 6.5% in 1984. The declines in Federal program spending are particularly sharp: Chapter 1 lost 17% in its purchasing power between fiscal years 1980 and 1987; Chapter 2 lost 55%; bilingual education 45%; impact aid 36%; and adult education 28%.

H.R. 5 would restore some of the ground these programs lost by increasing the fiscal year 1988 authorizations to a level adequate to allow for some modest growth. In the five years beginning with fiscal year 1989, the authorizations for the programs would be set at such sums as necessary.

From introduction through Committee consideration, H.R. 5 maintained strong bipartisan support. In addition, the bill was written with maximum opportunity for comment from education, parent, advocacy, business and other segments of the community, so it enjoys wide support. The Committee commends this bill to the whole House as a comprehensive package that will have a meaningful impact on education through the end of this decade and the beginning of the next.

Legislative History

SUMMARY

H.R. 5 was introduced on January 6, 1987 by Congressman Augustus F. Hawkins and Congressman William F. Goodling. The Subcommittee conducted hearings on H.R. 5 in Washington, D.C. on February 26, 1987; March 3, 5, 10, 16, 19, 24, 26 and 31; and April 2. The March 16 hearing was joint with the Senate Subcommittee on Education, Arts and Humanities. The Subcommittee also conducted regional hearings on H.R. 5 on February 13 in Vermont, March 9 in Wisconsin, and March 30 in New York City.

On April 7 and 8, the Subcommittee held mark-up sessions on H.R. 5 and reported the bill, with amendments, by voice vote on April 8. On April 21 and 22, the full Committee on Education and Labor held mark-up sessions and at the end of the April 22 session ordered the bill reported by voice vote.

FORMAT OF THE LEGISLATION

As introduced, H.R. 5 simply extended through fiscal year 1993 all of the Federal elementary and secondary education programs that were due to expire during fiscal years 1987, 1988, or 1989. Congressman Hawkins and Congressman Goodling chose to introduce a skeletal legislative framework into which more substantive amendments could be inserted during mark-up sessions.

Soon after H.R. 5's introduction, several Committee members put forward more substantive reauthorization bills that would provide the basis for different components of the omnibus bill, H.R. 5. These included:

—H.R. 950, legislation introduced by Mr. Hawkins and Mr. Goodling to reauthorize Chapter 1 of ECIA;
—H.R. 1795, a bill introduced by Mr. Goodling and Mr. Hawkins reauthorizing Chapter 2 of ECIA;
—H.R. 1755, a Bilingual Education Act reauthorization bill, introduced by Congressman Hawkins, Congressman Kildee, Congressman Martinez, and Congressman Richardson;
—H.R. 1862, Congressman Williams' Adult Education Act reauthorization bill;
—H.R. 1896, Congressman Kildee's legislation to reauthorize the magnet schools assistance program;
—H.R. 1958, Congressman Sawyer's bill reauthorizing the mathematics and science education program under Title II of the Education for Economic Security Act;
—H.R. 6, the Effective Schools and Even Start Act, introduced by Congressman Hawkins and Congressman Goodling;
—H.R. 543, the Jacob K. Javits Gifted and Talented Children and Youth Education Act, introduced by Congressman Biaggi;
—H.R. 738, the School Dropout Demonstration Assistance Act introduced by Congressman Hayes; and
—H.R. 1227, the Secondary School Basic Skills Act, introduced by Congressman Williams.

These bills were used either as basic mark-up documents to which amendments were offered or as the source of amendments to

H.R. 5. The various components were folded into the omnibus bill by a unanimous consent request during the mark-up.

Throughout its Subcommittee and full Committee consideration, H.R. 5 enjoyed bipartisan support. The bill currently has 53 cosponsors. In addition, several of the other measures incorporated have bipartisan support; in fact, the dropout prevention bill and the gifted and talented education bill both passed the House by overwhelming margins last year, but were never taken up by the Senate.

RELATED LEGISLATIVE ACTIVITIES

Because of the magnitude of the omnibus reauthorization and the importance of the programs it encompasses, preparation for this reauthorization began in the 99th Congress. Beginning on October 17, 1986, the Chairman and Ranking Republican sponsored a series of weekly forums on particular reauthorization issues for the Committee Members and staff and certain other Congressional staff. At these forums, experts representing different viewpoints discussed with staff the current issues and recommendations for legislative changes for the programs in H.R. 5. The Subcommittee sponsored 16 of these forums throughout late 1986 and early 1987, ending with one on January 30, 1987.

The Subcommittee also undertook several other activities to lay the groundwork for H.R. 5. In late 1986, the Chairman called together a task force on audit reform, involving representatives of the Committee, the education community, the Department of Education, the civil rights community and the legal community. The outcome of these meetings was a package of audit reform amendments that was eventually incorporated into H.R. 5.

Chairman Hawkins and Congressman Goodling also solicited recommendations for improvements to the expiring programs by sending letters to approximately 66 organizations concerned with elementary and secondary education. These included not only education groups, but also civil rights groups, business groups, advocacy groups, and parent groups. Many of these organizations submitted very useful recommendations, which were used to draft the Chapter 1 bill, H.R. 950, or were later incorporated as amendments to other programs in H.R. 5.

The Chairman and other Members of the Committee also asked the General Accounting Office to undertake a series of studies on selected reauthorization issues. The Subcommittee staff also carried out two staff investigations on the targeting provisions under Chapter 1 and on Federal adult illiteracy programs. Both of these staff investigations culminated in staff reports, the findings of which guided discussion of amendments on Chapter 1 and adult education. Finally, the Committee staff held periodic briefings on the progress and findings of the congressionally-mandated National Assessment of Chapter 1.

In addition to the aforementioned hearings on H.R. 5, the Subcommittee and full Committee held several related oversight hearings that produced information relevant to the Subcommittee's consideration of the legislation. These included Subcommittee oversight hearings on Indian education on March 2 and March 6, 1987, a full Committee hearing on March 11 at which Secretary of Education Bennett testified on the expiring programs, and a full Committee hearing in Los Angeles on March 20 addressing bilingual education and illiteracy.

NEED FOR THE LEGISLATION AND PROVISIONS OF THE BILL

CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

A. Background and Need

1. Introduction

Chapter 1 is the bedrock on which Federal aid to elementary and secondary schools has been built. Since its enactment as Title I of the Elementary and Secondary Education Act of 1965, the program has provided Federal funds to school districts to meet the special educational needs of educationally-deprived children in low-income areas.

During its 20-year history, the program has called attention to the plight of poor and low-achieving children through locally-operated "compensatory education" programs and of migrant, handicapped, and neglected and delinquent children through the three State-operated special programs. Title I/Chapter 1 has served as the prototype for more recent Federal programs aiding other special groups. It has spawned State-funded compensatory education programs in 19 States and thousands of local programs targeted on the poor and disadvantaged. It has grown from a $960 million commitment in school year 1965–1966 to a $3.9 billion commitment in 1987–88, making it the largest Federal elementary and secondary program.

Most importantly, it has fulfilled its original sponsors' dream by offering a "passport from poverty" for perhaps 100 million children over its duration, giving them a boost toward success in school and later life. It has documented that disadvantaged children can hold their own with their more advantaged peers, if given the services and resources they need.

About 90% of the nation's school districts now participate in Chapter 1. (The program was renamed when the Education Consolidation and Improvement Act of 1981 made substantial revisions in it.) Funds are distributed to local educational agencies (LEAs) on the basis of a formula which counts school-age children from low-income families. School districts are required to focus the funds on the poorest school buildings. This distribution method was originally selected and has been retained because: (1) as the Congressionally-mandated National Assessment of Chapter 1 has recently noted, there is a correlation between poverty and education disadvantage which increases as the concentration of poverty and length of time in poverty goes up; (2) schools serving low-income areas are less likely to have the resources to provide supplementary services; and (3) the census poverty data in one of the few types of nationally-uniform data available. However, once the Chapter 1 funds reach the school building, children are selected for participation based on educational need, not income.

Chapter 1 has always been a program largely administered by State educational agencies (SEAs) and conducted by LEAs or State agencies. The law contains several requirements to protect the fiscal integrity and focus of the program—funds must be supplementary to State and local money and must be used for the intended beneficiaries. But within the fiscal and targeting restraints, local and State agencies have been free to design projects that best meet the educational needs of their children, with full discretion over such matters as curricular strategy and subjects of instruction.

About 4.9 million children participated in Chapter 1 in school year 1984–85 (the most recent for which data is available). Although the law does not circumscribe the grade levels at which projects can be operated, in actual practice about 76 percent of the children served are in grades kindergaten through six. And although the law does not so mandate, Chapter 1 is primarily focused on basic skills. Reading is the subject offered most often as part of Chapter 1. Schools usually provide instruction in a combination of subjects which generally includes both reading and math.

Three-quarters of Chapter 1 funds are used for direct instructional services: in 1983–84, approximately 155,000 teachers and classroom aides were paid with Chapter 1 funds. The remainder pays for related or support services and administration.

On top of the Chapter 1, LEA program for disadvantaged children, the law has for many years funded three separately-authorized programs operated at the State level. These so-called "State agency" programs provide special services for: (1) children of migratory workers, (2) children in State-supported institutions for the handicapped, and (3) children in neglected and delinquent institutions and adult correctional facilities.

2. *Effectiveness of Chapter 1*

"Apparently Title I has developed some of the qualities of the flag and home cooking," former U.S. Commissioner of Education Francis Keppel commented as he surveyed the bipartisan, diverse crowd at the programs 20th Anniversary celebration.

Title I/Chapter 1 does enjoy broad, bipartisan support, and one need not look far for the reasons for its longevity and popularity. Simply put, it is a successful, effective program. It is channeling funds to the poorest schools, it is reaching its intended beneficiaries, and it is raising educational achievement.

The following preliminary findings of the National Assessment of Chapter 1, the mandated study being conducted by the Department of Education, show that Chapter 1 is targeted on poorer than average schools:

> Among the districts receiving Chapter 1, participating students are more likely to reside in districts with high poverty rates than in districts with low rates of poverty.
>
> Chapter 1 elementary schools have higher concentrations of poor children than do non-Chapter 1 schools.
>
> Chapter 1 services are most likely to be provided in schools with high concentrations of poor, minority, and low-achieving students.

Discussion has ensued recently about whether Chapter 1 is adequately targeted on the children with greatest need. The interim report of the National Assessment raised this issue with a reference to a 1976 study which showed that about 60% of Title I students were not poor and that 10% of students in reading programs and 20% of those in math were not low-achieving.

Concerned about this question, the Subcommittee staff undertook a thorough investigation of current practices, including a survey of States, the results of which are detailed in the Committee staff report—Targeting Students for Chapter 1 Services: Are the Students in Greatest Need Being Served? In addition, the General Accounting Office (GAO) published a report on this issue entitled Compensatory Education: Chapter 1 Participants Generally Meet Selection Criteria.

The GAO "found few errors in the choice of students to receive Chapter 1 reading services"—the error rate in placing Chapter 1 students, GAO noted, was less than 3%. GAO concluded that participants generally meet selection criteria. The Subcommittee staff's State survey also showed a high degree of compliance with proper selection procedures. GAO went on to note that of the low-achieving children not being served by Chapter 1, many were served by other special programs or were not included for equally valid reasons. The Subcommittee report pointed out that the law does not require students to be selected on the basis of their family incomes, so it is unfair to criticize the program for serving some children who are not poor. The report also called attention to the perils of drawing conclusions about the current program from ten-year-old data.

One issue about which there is little disagreement is Chapter 1's positive effect on student learning. A large body of evidence now exists to document Chapter 1's impact on achievement:

The National Assessment of Chapter 1 report on effectiveness concluded, "Students receiving Chapter 1 services experience larger increases in their standardized achievement test scores than comparable students who do not."

The same report added, "The achievement of disadvantaged students has improved since 1965, especially in reading, relative to the achievement to the general population."

The National Assessment of Educational Progress, the only nationally-representative achievement data collected over time, found higher than average achievement gains over the past decade for those groups targeted for Chapter 1 services, namely, minority children, children in poor urban and rural areas, and the elementary school age children in their sample. These gains occurred at a time when the achievement of other children was declining.

The Department of Education's Chapter 1 Evaluation and Reporting System shows upward movement in the percentile ranks of Chapter 1 students in reading and mathematics for every grade except twelfth grade.

A Congressional Budget Office report on achievement test scores found that a pattern of declining test scores began to reverse itself with children born around 1963, children who entered school three years after the passage of the Elementary and Secondary Education Act. CBO found that scores of students in the upper elementary grades are at their highest level in three decades and that the upturn in scores is particularly strong among minority students.

Vice President Bush aptly characterized the wide support for Chapter 1 when he stated, "Even though every area of the budget is coming under very close examination and tough decisions have to be made, there is a broad consensus in terms of the funding for the Title I program."

Chapter 1 is also a cost effective program. The Chapter 1 per pupil cost—in the range of $600 per child—is less than one-fourth the cost of grade repetition for the same child.

3. Impact of Budget Cuts and Continuing Need for the Program

Chapter 1 has never been fully funded, so the percentage of eligible children served is far lower than initially envisioned. If one uses as a proxy of eligibility the number of children in poverty (recall that the dual nature of the program means that there is no single definition of eligibility), the 4.9 million children served constitute only 55% of the 8.8 million children in poverty. If one uses achievement as an indicator of need, the Congressional Research Service has calculated that the program is reaching only 43% of those below the 25th achievement percentile, 31% of those below the 35th percentile, and 22% of those below the 50th percentile.

From all indications, the target population for Chapter 1 is growing. The percentage of children living in poverty increased from 16% in 1979 to 22% in 1983. The number of students at risk—poor children, minority children, children of teenage mothers, children in single parent homes—are quickly rising. In fact, a new study by the Council for Educational Development and Research concluded that disadvantaged students "are about to become the majority in our public schools."

At the same time the need for the program is growing, the funding is contracting. Chapter 1 was the target of budget cuts in 1981, 1982, and 1986. Although the funding increased slightly in some of the interim years, the program has failed to keep pace with inflation; in adjusted dollars, the program has suffered a 17% cut since 1980.

As a result of these cuts, participation in the program has fallen from 5.4 million in 1980–81 to its current level of 4.9 million. The number of Chapter 1 teachers and aides also dropped from 200,000 in 1979–80 to 155,000 in 1983–84.

The grim conclusion is that unless there is a massive campaign to restore this program's buying power, we will be facing a national crisis. Underinvesting in Chapter 1 will have severe consequences, in terms of more expensive remediation for older students, retraining unskilled workers, foregone tax revenues, and lost productivity.

Americans are beginning to recognize that enhancing educational opportunities is an investment. On March 16, 1987, a panel of five senior executives of major corporations testified in support of Chapter 1 before a joint session of the Subcommittee on Elementary, Secondary, and Vocational Education and the Senate Subcommittee on Education, Arts, and Humanities. The joint statement issued by these leaders in manufacturing, banking, and telecommunications eloquently summarizes what our agenda must be:

> Chapter 1, because of its widespread acceptance both politically and educationally, must remain the central element of our compensatory education initiatives . . . For Chapter 1 to remain the centerpiece of a national effort to improve education for disadvantaged and low-income children, the program must be reauthorized and given sufficient resources to do the job Congress intended . . . [W]e urge you to consider the continuing costs that will be the consequence of children who are eligible but not now helped.

B. Explanation of the bill (LEA Grant program and Administrative Provisions)

1. General Themes

In reauthorizing the Chapter 1 program for six additional years, H.R. 5 does not radically alter current law. Rather, the bill refines the program in ways that will carry it into the 1990s. These revisions can be grouped into 6 major themes: expanding, targeting, improving, permitting flexibility, fostering parental involvement, and clarifying provisions for private school children.

In maintaining the program's current structure and focus, the Committee heeded studies, testimony, and comments of State and local people which affirmed that the program is working well. For example, a survey of 3,000 local Chapter 1 administrators and of all the States, conducted by the National Association of State Chapter 1 Coordinators and analyzed in a report to the Committee, "indicate(s) a general satisfaction with the program's administrative policies" and concludes there is "an overall sense that the program is doing a good job in providing reading and mathematics instruction annually to almost five million children."

The Committee recognizes the need to maintain stability in a program that has become an accepted and often welcome part of the total educational program in participating schools. The Committee did not accept several proposals afloat during the reauthorization that at a minimum would have disrupted the program and at worst would have completely changed its nature and harmed its progress.

However, the Committee also realizes that it has been nearly a decade—dating back to the Education Amendments of 1978 (P.L. 95-561)—since the program has received a thorough review as part of a reauthorization process. The last set of major amendments to the program, the ECIA statute that changed Title I to Chapter 1, was contained in the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Because of the unusual procedure by which the reconciliation bill passed the House—sweeping authorization and programmatic changes to numerous Federal laws were attached to a budget bill as a floor substitute—the authorizing Committees were bypassed, and there was minimal opportunity for public comment or legislative deliberation.

Thus, as discussed in the legislative history section above, the Committee spent several months reviewing in detail the current issues and needs in Chapter 1. Our review took into account the hearing testimony, the recommendations made in the Subcommittee reauthorization forums, studies and evaluations, and the comments submitted by over 20 organizations and associations. H.R. 5 incorporates the best of theses recommendations for improving Chapter 1. It also responds to emerging problems, such as the alarming dropout rate, the growing demands for preschool education, and interest in promoting excellence in Chapter I programs.

A discussion of the particular provisions, the reasons why they were adopted, and how they differ from current law follows.

2. Format

Chapter 1 of the School Improvement Act reauthorizes and extends through fiscal year 1993 Chapter 1 of the Education Consolidation and Improvement Act (ECIA).

The expiration date in the Chapter 1 ECIA, statute is September 30, 1987. However, the General Education Provisions Act (GEPA) governing all Federal Department of Education programs allows for an automatic two-year extension of Chapter 1 (or any other forward-funded education authorization), so the program really does not expire until September 30, 1989. This automatic extension will protect the authority of the Appropriations Committee, in an FY 88 appropriations bill, to appropriate funds that will be used, for the most part, in FY 89.

Chapter 1 of ECIA is a unique statute, and not only because of its unorthodox enactment. To save on verbiage at a time when legislators wanted to cut down on the number of Federal requirements, the Chapter 1 law incorporated by cross reference several applicable provisions of the Title I law it was replacing, instead of repeating them verbatim. An additional set of technical and clarifying amendments was enacted in 1983 in P.L. 98-211. This meant that in order to comprehend all the statutory provisions and carry out the program, administrators needed to have on hand the Chapter 1, ECIA law, the defunct Title I law, and the 1981 technical amendments law.

Chapter 1 of the School Improvement Act replaces and repeals Title I of the Elementary and Secondary Education Act of 1965 and Chapter 1 of ECIA (as amended in the 1983 technical amendments). In H.R. 5, all the applicable provisions are together in one law for the first time in six years—a decision that William Dallam, President of the State Chapter 1 coordinators association, termed "a humane act" in testimony.

3. Provisions to Expand the Program

a. Encouraging full funding.—H.R. 5 continues the current authorization for Chapter 1, which is in the form of a self-generating formula where the ceiling depends on the number of children counted under the formula and certain per pupil expenditure data. The Chapter 1 authorization has operated this way since the program was enacted as Title I in 1965, and this type of authorization will allow for growth in the appropriations for the program.

The Committee also adopted an amendment to Chapter 1's statement of purpose, stating that the Congress declares it to be the policy of the U.S. to expand the program over the next six years to serve all educationally deprived children, through increasing the funding by at least $500 million per year over the baseline figure for fiscal years 1989 through 1993. The Committee estimates this is the minimum amount needed to approach some reasonable level of service for all eligible children, not taking into account inflation or increases in child poverty.

b. "Even Start" program.—H.R. 5 authorizes two new programs to expand Chapter 1-type services into the preschool and the secondary school levels. Although current law permits funds to be used for these ages already, most school districts have decided to concentrate limited resources on the elementary grades in an "early intervention" strategy. For example, only one percent of all Chapter 1 students served are at the prekindergarten level.

The two new authorizations in the bill for preschool and secondary school programs are intended to remove this barrier to expansion by providing funds specifically for programs at these levels. Both of these programs have modest authorizations for fiscal year 1988, then authorize such sums as necessary in the outyears to allow for growth in the number of such projects.

The first new program is the "Even Start" program to combine adult basic education for parents with limited skills and school readiness training for their young children into a single educational program. The name and the concept come from legislation introduced by Congressman Goodling that passed the House last year but was not considered by the Senate. H.R. 5 authorizes $50 million for FY 88 and such sums for the five following years for Even Start demonstration programs as described below.

The Committee's jurisdiction encompasses adult illiteracy, early childhood education, and education for disadvantaged students. During the 99th Congress, hearings were held on each of these issues, and the Committee determined that there was a continuing need for a strong Federal role in all three areas. In addition, the Committee heard testimony regarding the relationship between these problems, and, more specifically, the effects of adult illiteracy on the early educational development of children.

Two recent publications by the Department of Education, A Nation of Readers and What Works, summarize a body of research on the importance of the early learning that occurs in the home for the later development of literacy skills. Unfortunately, for those millions of parents who can not read themselves, this is empty advice. Even Start directly addresses this problem by combining adult education for parents with early childhood education for their children into a single program. Parents will not only be instructed in basic skills themselves, but in addition, will be assisted in becoming partners in their own children's education.

It is the purpose of the Even Start program to successfully combine adult basic education for parents and school readiness training for children into a single educational program. In many cases there may already be existing programs and other community resources for these purposes. Rather than supercede or compete, Even Start funds are intended to build on these resources in order to create the specific programs described in this Part.

Under this Part each State will receive a grant from that year's appropriation that is proportionate to its allocation under the basic grants section of Chapter 1. In order to assure that each State will receive an adequate share of the funding to operate a demonstration program, no State will receive less than .75 of one percent nor more than five percent of the Even Start funding up to $50 million. Of the funds appropriated over $50 million, the five percent cap will no longer apply, while the .75 of one percent State minimum will apply to all Even Start funding. If there is only a minimal level of appropriations, then no State will receive less than $100,000.

The Committee has found through its deliberations that the children of migrant agricultural workers are among the most disadvantaged students in the nation. Section 1052 sets aside three percent of the Even Start funds for migrant programs to assure that migrant parents and their children are included in this program. It is the intent of this Committee that such a program be conducted through the Office of Migrant Education to take advantage of their expertise and to coordinate this program with others conducted by the Office.

Programs assisted with funds under this Part must have two basic characteristics. First, they must be family centered. This means that they must focus on both the parents and the children as a unit. Services should take place in the home when possible and be designed so that parents and children can work on activities together. Second, the aim of the program must be to help the parents become active in their own children's development. Programs should not merely teach parents in one setting and children in another. The primary goal of Even Start is to help parents be their children's first teacher and become more literate in the process, rather than teach the parents and children in separate and distinct programs.

The elements of any program assisted under this Part are clearly spelled out. It is noted, however, that many grantees will need to develop new methods of outreach, staff training, and curriculum design in order to successfully carry out the unique aspects of these programs. The specialized training of staff has been shown to provide a solid foundation for positive results in a wide range of adult education, early childhood education, and child care settings.

Because the goals of Even Start are to be accomplished through a combination of adult literacy, parent education, and early childhood education, it is important that programs provide adequate training opportunities for staff in each of these areas. The most effective staff are those who are skilled at working collaboratively with parents to bridge the child's home and early learning environments. For reasons of age or program capacity, some young children may be in child care while their parents and siblings directly participate in Even Start programs. Extending access to special Even Start training to supporting child care staff on a space available basis will allow all eligible children in participating families to have the benefit of a quality early learning experience.

Section 1053 allows the use of Even Start funds of support services to allow families to participate in the program. It should be stressed, however, that Even Start funds should only be used for support services as a last resort. Communities should attempt to utilize other resources (including other federal programs) for non-instructional costs in order to maximize the level of educational services provided to parents and children.

Part B is designed as a demonstration program. Application showing the greatest promise will be funded for four years with a decreasing federal share each year. The intention of this provision is to encourage grantees to become self sufficient so that programs will continue to exist when the federal funds are withdrawn and grants awarded to other worthy applicants. The committee encourages grantees to use any other source of funds to create this match, including other Federal funds. It is likely that such a use of funds will lead to greater coordiantion between programs with similar goals.

The bill clearly describes the population eligible for this program: parents who lack literacy skills, and their children who reside in Chapter 1 eligible attendance areas. The committee expects these to be general guidelines for grantees to select those families who are most in need of these services.

H.R. 5 also clearly outlines the requirements of applications required to receive a grant under this Part. The Committee would call special attention to subsection (c)(5) which requires a description of coordination with other programs. Given the limited size of the Even Start authorization and the large number of existing local, State, and Federal programs focused on literacy and early childhood education, it is critical that applicants use Even Start funds as the extra piece needed to fashion an Even Start program out of these various sources of support.

Each State will award grants based on the applications filed under Section 1055, with the proposals being evaluated on the basis of the criteria listed in subsection (a). The review panel created by subsection (b) should be made up of prominent, respected individuals from the State who would bring special expertise to the review of applications. They shall use the criteria for applications in Section 1054 and the award criteria in Section 1055 as the basis for their awards.

The evaluation section of this Part is modeled on the evaluation section of the Head Start program. The Committee feels that the successful evaluation of demonstration programs, and the dissemination of those results, is the heart of Even Start. Without the validation and distribution of this knowledge, the results will not have the widespread impact that the problem requires.

c. Secondary school basic skills/dropout prevention.—Existing Chapter 1 programs do not begin to reach a significant portion of disadvantaged secondary school students. Only 24% of Chapter 1 students are in grades 7 through 12; only 6% are in grades 10 through 12. The situation has become worse in recent years, with many school districts absorbing Chapter 1 budget cuts and freezes by eliminating all secondary programs.

H.R. 5 proposes a new, two-pronged approach for addressing the special problems of disadvantaged, secondary-school-age youth. This approach authorizes $100 million in FY 88 and such sums as necessary for the five following years, first for demonstration projects, then for implementation grants aimed at (1) effective dropout prevention and re-entry strategies; and (2) effective secondary school basic skills improvement programs.

The bill includes both components because the problems of dropouts and low achievement among secondary students are intertwined. A General Accounting Office study of the dropout problem cited poor grades and other school-related problems as a major reasons why students drop out. Students who are two or more years behind grade level are one of the highest risk groups of potential dropouts.

There is no single, reliable source of data on the number of school dropouts in the United States, but even the most conservative estimates reveal a serious problem. The Bureau of the Census Current Population Survey estimates that 14 percent of youth ages 18–19 are dropouts and that the dropout rate for youth ages 16–24 has remained roughly the same for the past decade. The U.S. Department of Education estimates the national average dropout rate to be 29.1%. Other sources place the rate somewhere in between these percentages. In contrast, all but 7% of the students in Japan complete high school.

These different estimates result from varying data collection methods, definitions, and groups of youth studied. Regardless of these variations, the data sources together are a powerful indicator of a national problem. If 20% of all students drop out before graduation, then each year the number of new dropouts would total 750,000. Particularly alarming are the dropout rates for inner city, minority, and poor youth.

In some individual school districts, the dropout rates far exceed the national averages. Though school district dropout statistics are often incomplete and of variable quality, they indicate severe problems in such cities as Los Angeles and Chicago, both of which have 43% dropout rates.

Lagging achievement among our secondary school students also presents an extremely serious threat to our society.

A study of the high school by the Carnegie Foundation for the Advancement of Teaching noted:

> A larger percentage of students—perhaps 20 to 30%—mark time in school or drop out. For them, the high school experience occasionally may be socially supportive, but academically it is a failure.

According to the National Assessment of Educational Progress' examination of reading achievement, "the average reading proficiency of these students [minority and disadvantaged urban students] is quite low and in need of further improvement."

The National Commission on Excellence in Education in the report A Nation at Risk cited the following indicators of the dimensions of the problem:

> About 13 percent of all 17-year-olds in the United States can be considered functionally illiterate. Functional illiteracy among minority youth may run as high as 40 percent.
>
> Average achievement of high school students on most standardized tests is now lower than 26 years ago when Sputnik was launched.
>
> Many 17-year-olds do not possess the "higher order" intellectual skills we should expect of them. Nearly 40 per-

> cent cannot draw inferences from written material; only one-fifth can write a persuasive essay; and only one-third can solve a mathematics problem requiring several steps.

In the opinion of some experts, the educational reform movement's emphasis on competency testing and stiffer graduation requirements may aggravate achievement and dropout problems. The Association for Supervision and Curriculum Development task force on high school graduation requirements drew the following conclusion in a report:

> Many fourth-quartile students have not been well served by the traditional academic subjects. Imposing increased course requirements in these studies (with a stronger focus on drill and repetition) is likely to lead to lower success rates for this group. Students' self-esteem and sense of fate control will ultimately deteriorate, further depressing achievement and initiating an unhealthy downward spiral. Consequently, many of these borderline students may drop out of school earlier and in greater numbers.

At a minimum, increased graduation requirements will surely heighten the need for good basic skills programs designed to help disadvantaged secondary school students compete in this climate of school reform.

These young people are forfeiting their ability to earn a decent wage, secure decent housing, raise a family, function effectively in society, or simply enjoy the rewards of American life. Addressing the problem through basic skills and dropout prevention programs in school, or through reentry programs for out of school youth, is less costly than allowing the problem to go unattended. The Chicago Panel on Public School Finances estimated that each dollar spent now on dropout prevention stands to save the taxpayer $12 in other costs in the future.

H.R. 5 therefore proposes a new program of grants to establish, demonstrate, and implement dropout prevention and secondary school basic skills improvement programs. The program will have two, 3-year phases: Phase One will extend over the first three years of the authorization (FY 88-90). In this phase, the Secretary of Education will make national competitive grants for projects that demonstrate effective approaches to dropout prevention or secondary basic skills improvement. In Phase Two, which covers FY 91-93, States will receive grants on a formula basis to implement the effective techniques that have emerged from Phase One. The Committee felt that $100 million in the first year would be better spent on selected, promising programs run by grantees with great needs, rather than on a widely dispersed formula grant program. The Committee anticipates that the appropriations will increase over time, so that when Phase Two is reached, there will be adequate funding for a nationwide implementation program.

After 3 percent of the Phase One funds are reserved for migrant programs, the Secretary will divide the appropriation, with half going to dropout prevention activities and half to secondary basic skills improvement activities. If funds remain after the funding needs (based on the number of applications and types of programs proposed) are met for one activity, the Secretary may adjust the 50/50 split and shift funds to the other activity. The Committee realizes that dropout prevention projects will probably include basic skills components and vice versa and does not mean to discourage that from occurring. Where applicants propose both types of activities, the Secretary shall calculate whether the 50/50 split is being met by attributing amounts to one or the other type of project based on the estimates of costs for the various activities provided by the applicant. Through this and other provisions in the bill, the Committee hopes to promote coordination between the two types of activities.

The bill requires specific percentages of the Phase One dropout prevention funds to be allotted to categories of school districts that are based on enrollment size. The Secretary may use leftover funds from one category for projects in another category, only if all the applicants in the original category have received grants sufficiently addressing their needs. The bill contains criteria for selecting grantees for dropout prevention projects based on numbers and needs and the value of the proposed projects as demonstrations. The bill also specifies matching requirements for Phase One dropout prevention programs.

The Secretary shall award Phase One secondary basic skills program grants based on the quality of the proposals, the way in which the proposals address specific problems of secondary students, and in a manner that distributes funds equitably in terms of geography, urban/rural mix, size of LEA, and characteristics of students.

Under Phase Two, the Secretary, after reserving 3 percent of the funds for migrant program implementation grants from the national level, will make grants to States for dropout prevention and secondary basic skills programs, distributed in proportion to the States' regular Chapter 1 grants. Within State, the SEA shall distribute funds to LEAs with the greatest need for services based on numbers or proportions of secondary school age poor children, low-achieving children, or dropouts; that are representative of urban and rural regions of the State; and that have the greatest financial need for funds.

LEAs may use Phase Two funds for dropout prevention, secondary school basic skills programs, or a combination. These programs are held to the general fiscal requirements for Chapter 1 LEA programs. LEAs operating secondary school programs with Chapter 1 funds must continue the same aggregate level of funding for secondary programs, although the funds do not have to be spent at the same secondary schools in future years.

Applications for both Phase One and Phase Two must contain certain assurances in the bill, with respect to serving the neediest schools and students; coordinating the programs with other relevant programs; involving business, the community, and parents; evaluating the programs; and serving private school students. Dropout programs must meet additional requirements, such as developing a dropout information collection and reporting system.

Dropout prevention activities include identification activities; early intervention for students at risk of dropping out; establishing systemwide plans and policies; guidance and social work services;

ombudsman and mentor services; staff training; and other services as listed in the bill for students who have dropped out or are potential dropouts.

Secondary school basic skills improvement activities include initiating or expanding programs to meet the special needs of secondary students; developing remedial programs; developing innovative approaches to surmount the barriers that make secondary programs difficult to administer; staff training; counseling and support services; peer tutoring; and other activities listed in the bill. The bill defines the term "secondary school" in a manner that may include, to the extent consistent with State law, middle schools and junior high schools, as well as senior high schools.

Grants under this program are not intended to fund projects involving public schools in the provision of family planning and reporductive health services to minors, through school-based clinics or other means. Such services, with appropriate safeguards and limitations, are funded through various Federal and State health programs, and it is not the Committee's intent to duplicate such funding through the education budget.

The Committee is aware that another Committee of the House will soon begin hearings on this issue. That Committee is the more appropriate forum for a discussion of the issue since it is the Committee of jurisdiction over health matters.

The bill includes limits on administrative costs at the State and local levels for the dropout/basic skills programs.

4. Provisions for Better Targeting

As noted earlier in the background section, much recent discussion has revolved around whether the Chapter 1 program needs to be better targeted. While all the evidence from the Committee investigation and GAO study on this issue refutes inferences made in the Department's budget document that ineligible children are being served, and while the GAO found that States and LEAs are properly targeting according to the provisions of the law, the question must still be asked whether the provisions of the law could be improved.

Trying to improve targeting is a delicate balancing act. On one hand, Chapter 1 is a popular and widely-supported program because it does reach every area of the country and is available to help all children who need compensatory education, not just poor children. Targeting too narrowly could undermine a philosophy that has been at the heart of the program. On the other hand, the rising numbers of children in poverty and children at risk make it essential that the funds reach the schools and the children with the greatest needs.

H.R. 5 attempts to strike the appropriate balance with the following provisions:

a. Concentration grants.—The Committee has responded to concerns about targeting Chapter 1 funds on areas of high poverty by requiring the first $400 million of new Chapter 1 appropriations to be distributed on the basis of a formula more concentrated than the basic one. These funds do not constitute a separate program or are not to be separately accounted; they are for the purposes of the regular Chapter 1 LEA program.

The Committee adopted a concentration provision in recognition of the finding of the National Assessment of Chapter 1 that there is a strong relationship between low achievement and the concentration of poor students attending a child's school. The Administration strongly advocated concentration grants in its bill. However, the Committee bill differs from the Administration's proposal in that H.R. 5 will not redistribute current money, as the Administration bill would have. H.R. 5 affects $400 million in new money—the level of funds appropriated for Chapter 1 in the fiscal year 1987 appropriations bill for use in school year 1987-88 would be the base year, and the increase would be calculated from that. When the $400 million funding level for concentration grants is reached, about 10 percent of Chapter 1 money will be distributed according to the more concentrated formula, so the bill does not institute massive shifts in the future distribution of funds.

The concentration formula in H.R. 5 is the product of many hours of labor to find the factors that will equitably treat urban and rural areas and all regions of the country, yet still be concentrated. A compromise amendment in the full Committee markup achieves this equitability. A concentration formula, by definition, will not benefit everyone; however, if it fairly reaches the areas of need in a program, the purpose of which is to help needy children, it is a creditable formula worthy of support.

Under the bill, counties with over 6,500 low-income children (using the regular Chapter 1 formula child count) or with over 15 percent of their school age children from low income families will qualify. These thresholds were adopted in Committee to shift a greater proportion of concentration funds to poor, rural areas. Counties receive amounts based on the number of poor children over the threshold for counties qualifying by means of the numerical threshold, or based on the count of all poor children for counties qualifying by means of the percentage threshold, whichever is greater. Small States are guaranteed one-fourth of one percent.

The formula uses county-wide data because that is the lowest level for which there is accurate, nationally uniform census poverty data. But the bill does spell out procedures for distribution within county to ensure the LEAs with the greatest concentrations within county receive the most. In general, only those LEAs which individually meet the 6,500 or 15% poverty thresholds will receive concentration funds, in amounts proportionate to their numbers or percentages. The State determines which LEAs qualify based on the best available local poverty data. However, there are certain exceptions to this procedure.

First, in counties which have exceeded the threshold but in which no LEA qualifies on its own, the SEA will allocate funds in rank order of numbers and concentrations of poverty, but only to those LEAs which exceed the county-wide average of poverty.

Second, in States which receive the minimum grant amount for concentration grants, the SEA may allocate funds to LEAs without regard to counties, in rank order of the LEAs' concentrations and numbers of poverty, but only to those LEAs that exceed the Statewide average of poverty.

Third, an amendment accepted in Committee ensures that the State may reserve 2 percent of the concentration money for grants to individual school districts that qualify under the thresholds but which are in counties that do not qualify.

b. Targeting schools.—The Committee has added several clarifying provisions to current law to eradicate any questions about targeting schools and selecting students within school districts.

H.R. 5 restores a number of former Title I provisions that explained in more detail how to target schools. One of the goals of the 1981 Chapter 1 law was simplification, but in the rush to simplify and reduce the number of Federal requirements in the law, some clarity was lost. The 1983 technical amendments rectified the most urgent problems. The Committee has used this reauthorization to further clarify, but only where needed. As will be discussed in the flexibility section, the new Chapter 1 in H.R. 5 does not go back to the degree of detail found in the old Title I law and is in keeping with the flexible spirit of Chapter 1 of ECIA.

One such provision reinstates explicitly the principle that was found in Title I and implied in Chapter 1 requiring school districts to rank their school attendance areas in order of poverty and serve only those above the district average. As in both Title I and Chapter 1, H.R. 5 continues the "local discretion" provisions authorizing certain options and exceptions to this general requirement. In deciding how many attendance areas will receive services, the LEA should ensure that Chapter 1 resources in each building are sufficiently concentrated to meet the requirement in the law that programs be of "sufficient size, scope and quality."

The bill tightens up the provision in current law allowing LEAs to serve all their school attendance areas if they have uniformly high concentrations of poverty. A regulatory change made by the Department after enactment of Chapter 1 relaxed this provision, applying it to LEAs with no more than 10% variation from the average, in the poverty of all the schools in their district. The National Assessment of Chapter 1 found that the relaxation of this standard increased the percentage of LEAs using this option from 29% of all LEAs (that are not exempted from ranking) in school year 1981-82 to 43% in school year 1985-86. In the districts with the lowest poverty rates, use of the option increased even more, from 25% of such districts to 65%. From other data in the National Assessment, it is clear that these are the LEAs most likely to be serving the children who are the least poor or low-achieving.

H.R. 5 revises this provision to apply only to LEAs where the variation from the district-wide poverty average is only 5% for any school. This is based on the 5% "no wide variance" in the former Title I regulations.

Other changes in school targeting and selection include provisions:

—Restoring a Title I fiscal requirement for LEAs that use the option to serve any school with 25% or more poverty;

—Clarifying that LEAs must use the same measure of low-income to qualify all their schools; and

—Deleting an ambiguous reference to "either of the two preceding years" in the provision allowing schools to be "grandfathered" in the program for an additional year, and inserting instead that this provision applies to schools that were eligible "in the immediately preceding year."

c. Selecting students.—A basic principle of Title I/Chapter 1 has been to serve the children in greatest need first. One key targeting provision of H.R. 5 requires that districts identify the children in each school building, according to educationally-related objective criteria which include written or oral testing instruments uniformly applied across grades, and then serve those children with the greatest need for supplemental services (as based on the needs assessment). This provision derives from Title I law and longstanding practice and was recommended by the Chapter 1 coordinators as a necessary clarification. As with school selection, the options and exceptions for local discretion are continued.

The bill also clarifies the frequently-confusing issue of participation of handicapped and limited English proficient children in Chapter 1. The confusion sometimes stems from Federal or State statutes mandating certain services to these children, and how those mandates interact with the Chapter 1 provision prohibiting supplanting of funds. The bill states that handicapped and limited English proficient children are eligible to receive Chapter 1 services if they have needs stemming from educational deprivation and not related solely to their handicapping condition or limited English proficiency.

The language clearly states that Chapter 1 funds cannot be used to provide services that are otherwise required by law to such children. However, under the language in the bill, these children are fully eligible to participate in all Chapter 1 services, under the conditions described, and should not be discriminated against. In fact, the Committee encourages LEAs to have provisions to ensure maximum coordination between Chapter 1 services and other programs that address such children's handicapping conditions or limited English proficiency, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the students' programs.

A final provision regarding student selection conforms the ages of eligible students with the preschool through secondary school concept of the bill.

5. Provisions to Encourage Program Improvement

A criticism of Chapter 1 that surfaces frequently is that the program "penalizes success." Those who raise this point seem to be referring to the fact that since an eligible school building's amount of Chapter 1 money is based, by law, on the numbers and needs of the children served, the allocations to schools could decline if their Chapter 1 students increase their achievement enough to "test out" of the program.

The Committee has been responsive to the widespread interest in including some incentives into the Chapter 1 program that will "reward success." Most Chapter 1 programs are producing satisfactory results, but the existence of truly exemplary programs suggests that more programs could do even better. Moreover, there is no reason why any Chapter 1 program should be operating poorly or why a program should "give up" on any child who is making no progress. H.R. 5 contains several provisions to promote quality in Chapter 1.

a. Evaluation and program improvement.—The Committee continued the provisions requiring regular evaluation of Chapter 1 programs (including evaluation of whether achievement gains are sustained), with several important clarifications. Each LEA must do an annual review of the effectiveness of its Chapter 1 program. Local educational agencies are to report evaluation data to State educational agencies once every three years using nationally established evaluation models. States must inform the LEAs in advance what type of data will be needed. These provisions allow States to aggregate the data to report to the Department of Education so that it can assemble and present a national picture of how well Chapter 1 is accomplishing its intended goals of improving achievement.

The bill newly requires local districts to use their annual evaluation results for program improvement purposes. An entire new section of program improvement amendments is the centerpiece of the Committee's efforts to improve the quality of Chapter 1. These amendments specifically require each LEA to annually identify any school building which has shown no improvement, or a decline, in the aggregate achievement of students served in Chapter 1. The LEA must work with the school to formulate and implement a plan for program improvement for the following school year, sharing the plan with the parents of children served, the local school board, and the State educational agency. This plan shall incorporate changes in the program with the greatest promise for success, including such changes as technical assistance, alternative curriculum, coordination with the regular program, evaluation of parental involvement, and inservice training.

If achievement in that school declines or shows no improvement for a second year, the LEA shall, in consultation with the SEA, school staff and parents, construct a joint plan for improvement to be in effect until improved achievement is sustained for more than one year. In this situation, the SEA shall provide appropriate technical assistance and shall jointly establish with the LEA the measure of educational performance to be used.

In carrying out these program improvement provisions, SEAs and LEAs must consider a list of possible mitigating factors delineated in the bill, such as the mobility of the student population and the extent of educational deprivation.

The Committee realizes there is no hard and fast way to measure what is happening with the achievement of a group of children in the aggregate. In complying with these provisions, the Committee expects SEAs and LEAs to adopt policies that are strict enough to be meaningful but are consistent with the purpose and operation of Chapter 1, with respect to such issues as when to do pre-testing and post-testing, how to examine achievement across grade levels, and how to aggregate achievement scores.

A similar kind of accountability for individual students is required. The LEA must identify students who have been served by the program for a year and shown no improvement or a decline and must consider modifications in the program to better serve these children. For children who show a decline or no improvement after two consecutive years in the program, the LEA must conduct a thorough assessment of those children's needs.

In implementing all these provisions, SEAs and LEAs shall use the resources of the Chapter 1 regional technical assistance centers to their fullest extent.

b. Innovative projects.—A provision that is intended to promote program improvement as well as provide more local flexibility in operating Chapter 1 is the new authority in H.R. 5 for innovative projects. The bill permits no more than 5 percent of an LEA's allocation to be used for several types of innovative projects listed in the bill, if the district matches that amount dollar for dollar from State or local funds. The matching provision is waived for poor LEAs which can demonstrate to the State that they do not have the resources to provide matching funds.

These projects are limited to the following activities:

—continuing services to children who had been eligible for Chapter 1 for a period sufficient for them to maintain their achievement;

—Providing incentives to schools that have demonstrated significant progress in attaining chapter 1 goals;

—Training Chapter 1 and non-Chapter 1 teachers and librarians to integrate Chapter 1 activities into the regular classroom;

—Extending the availability of services for children transferred to ineligible areas as part of a desegregation plan;

—Programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental programs; and

—Encouraging community and private sector involvement in Chapter 1.

Some of these acitivities build on what can already be done under Chapter 1, while others, such as incentive grants, are new uses. With this provision, the Committee does not intend to restrict funds LEAs are already using for activities similar or related to those above; for example, if a project were using a greater percentage of the grant for an innovative parent program. Rather, the intent of this provision is to highlight some activities LEAs may not have considered because of current statutory or regulatory provisions and to encourage LEAs to carry out such activities in more innovative ways than they can presently.

c. More advanced skills.—Language is inserted in several places in the bill to make clear that in carrying out Chapter 1 programs, LEAs and SEAs should consider achievement not only in basic skills, but also more advanced skills. Recent reports from the National Assessment of Educational Progress emphasize that it is in the area of the more advanced, or "higher order" skills of reasoning, analysis, interpretation, problem-solving, and decision-making, that American students are particularly deficient. By emphasizing this in Chapter 1, the Committee hopes to foster a climate of expectation that all students can master these necessary and appropriate skills.

Consequently, the bill includes language in the statement of purposes stating that the goal of Chapter 1 is grade-level proficiency for educationally deprived students and success in the regular school program; and includes references throughout the bill regarding the need to improve achievement in more advanced skills.

An amendment to the application section of the bill also requires LEAs to describe the desired outcomes of the Chapter 1 program, with a focus on mastery of those basic and more advanced skills that will not only spell success in Chapter 1 but will also consider the skills expected of students in the regular program.

d. Coordination with the regular program.—In its application, the LEA must, for the first time in Chapter 1, assure that it will allocate time and resources for frequent and regular coordination of the Chapter 1 curriculum with the regular instructional program in the LEA. Other amendments discussed earlier highlight the need to train regular program staff to work with educationally deprived children. This coordination is a two-way street. While Chapter 1 should be structured in a way that does not detract from and in fact fits smoothly into the regular program, LEAs should also examine which aspects of the regular program may be facilitating or frustrating the success of Chaper 1 students.

This provision makes clear that the Chapter 1 program should be coordinated with the regular program to increase the efficiency of the Chaper 1 program. In addition, the Committee is aware of the importance of the need for children in Chapter 1 programs to spend the maximum possible time in receiving instructional services, and urges State educational agencies, when reviewing local applications, to make certain this is achieved.

e. Rewarding success.—Other program improvement amendments:

Allow LEAs, in determining the number and needs of Chapter 1 children for purposes of calculating the amount of a school's Chapter 1 grant, to count for two additional years those children who have "tested out" of Chapter 1 and are no longer eligible. This will eliminate the "success penalty" that has been a complaint under current law.

Allow children who are still educationally deprived and therefore eligible, but are no longer in greatest need, to receive Chapter 1 services for two additional years instead of one, in order to maintain their gains.

f. Federal improvement activities.—H.R. 5 has three new provisions to bring about a more active Federal role in program improvement:

The Secretary is authorized to make small grants for applied research and innovative projects on promising educational models for serving Chapter 1 children and promoting parental involvement. Priority is to be given to research on tutoring programs using postsecondary students and research on the problems of providing effective programs in rural districts and those with declining enrollments.

The Secretary is directed to continue and expand the technical assistance centers.

The Secretary shall provide information on exemplary programs in the National Diffusion Network.

As mentioned earlier, the Secretary is required, in consultaton with SEAS, LEAs, boards of education and parents, to develop national standards for evaluation. The Committee does not intend these standards to be unduly burdensome or to entail a national standard test; the existing Chapter 1 Evaluation and Information Reporting System and the existing evaluation models would be appropriate.

The Committee does not intend that these provisions or any other provisions of the bill be construed to authorize the Secretary to use any of the national program funds under this Chapter to conduct any type of voucher program.

6. Provisions to Provide Greater Flexibility

H.R. 5 retains the underlying principle of Chapter 1, to provide Federal assistance "in a way which eliminates unncessary administrative burden and paperwork and overly prescriptive regulations and provides flexibility to State and local educational agencies in making educational decisions." (From H.R. 5's statement of purpose.)

While adding new program improvement provisions, the bill at the same time loosens some of the rules for operating programs. The theory behind this approach is to offer more flexibility, as long as LEAs can demonstrate results.

The key provision giving greater flexibility expands the authority in current law for LEAs to operate "schoolwide projects"—to use Chapter 1 funds in high poverty school buildings to upgrade the entire educational program in that school. Although current law permits schools with 75% or more poor children to implement schoolwide projects, this provision has not been widely used, primarily because of the stringent local matching requirement governing its use. According to the National Assessment of Chapter 1, less than 5% of schools that are currently permitted to operate schoolwide projects take advantage of this provision.

H.R. 5 loosens the requirements for schoolwide projects by deleting the provision requiring a matching contribution of State and local funds for every child who does not meet Chapter 1 eligibility. The schoolwide provision in H.R. 5 will continue to apply to schools with 75% or more poor children; in these buildings, funds can be used for activities to improve the instructional program in the entire school, such as reducing class size, training staff and parents in the whole school, implementing extended school day programs, or implementing an "effective schools program" (see the Chapter 2 section below for a more detailed discussion of the effective schools concept). This essentially means that Chapter 1 funds will not have to be separately accounted for to show that they are spent only on Chapter 1 children, but can be used for activities benefitting all children in these very needy schools. The National Assessment's data correlating increasing concentrations of poverty on a school with decreasing achievement suggests that it makes sound educational sense in these schools to attack the entire problem, not just a portion of it. As a protection against Chapter 1 funds replacing funds that had already been provided to that school from State and local funds, the bill requires the LEA to maintain the level of State and local funds per child in that building in the previous year (excluding State compensatory education and certain other funds) and holds these schools to the Chapter 1 general fiscal requirements. In addition, the Federal funds per educationally deprived child in the schoolwide project must equal or exceed such amounts in other Chapter 1 schools in the LEA.

Because this concept represents a striking departure from the long-standing prohibition against using Chapter 1 for general aid, the Committee has moved cautiously. The Committee did not incorporate recommendations to lower the percentage of poor children needed to qualify. According to the National Assessment, leaving the percentage at 75% will qualify 7,000 schools, or about 15% of all Chapter 1 schools nationwide. This is certainly an adequate number to test the validity of the schoolwide concept.

The Committee bill encourages the schoolwide projects to move toward total educational reform of the school program. This has not occurred in most schoolwide projects operated under the current law, according to the National Assessment. H.R. 5 moves in that direction by requiring LEAs that desire to operate such projects to submit to the State a plan, detailing how the school will implement an effective schools program and including several other assurances.

The bill also holds these schoolwide projects to certain accountability standards. The SEA will decide, based on the plan, which LEAs may operate schoolwide projects for a three-year period. At the end of that period, the schools must demonstrate that the achievement level of Chapter 1-eligible children in that school: (1) exceeds the average achievement of children participating in Chapter 1 districtwide or (2) exceeds the average achievement of Chapter 1 children in that school in the three preceding fiscal years. Secondary schools may comply by demonstrating lower dropout rates, increased retention rates, or increased graduation rates. Only schools which meet these achivement criteria will be allowed to continue the schoolwide projects for an additional three-year period.

Other provisions allowing greater flexibility, such as the aforementioned authority for innovative projects, are scattered throughout the legislation.

7. Provisions to Strengthen Parental Involvement

The greatest change between the former Title I law and the 1981 Chapter 1 law was in the area of parental involvement. The 1981 Chapter 1 deleted from the statute the mandates for district-level and building-level parental advisory councils and other provisions relating to the makeup and role of these councils.

The result, according to a number of studies and objective information, was a decline in parental participation in Chapter 1 programs. As Ms. Charlotte Northern, a parent representing the National Coalition of Title I/Chapter 1 Parents testified before the Subcommittee: "Under the present legislation, parent involvement is not working. With the dismantling of Title I and the adoption of Chapter 1, school systems across the country discarded parental involvement."

Mr. Chrys Dougherty, author of a study conducted for the Subcommittee on the changes between Title I and Chapter 1, reached a similar conclusion after surveying State administrators: "The troubling picture many Chapter 1 directors paint of stagnating or declining parent involvement provides a powerful argument that Congress should strengthen Chapter 1's parent involvement provisions."

The Committee has heeded this advice and attempted to strengthen parental involvement. In doing so, the Committee confronted the difficult problem of striking a balance: On one hand, program administrators had had legitimate problems carrying out what many felt were overly-prescriptive provisions of Chapter 1, particularly in sparsely populated areas where it was hard to get a sufficient number of parents to attend regular council meetings. On the other hand, there is a persuasive body of evidence documenting that parental involvement has a very positive impact on student achievement. H.R. 5 does not mandate the particular format of involvement (i.e., advisory councils) but does incorporate new requirements which school districts must carry out.

The H.R. 5 provisions for parental involvement have two themes: (1) spelling out more precisely how parents must be given input into the planning, design and implementation of Chapter 1 programs, and (2) providing parents with training and other means to work with teachers and school staff to promote Chapter 1 learning objectives in the home.

As regards the first objective, the bill requires LEAs to:

—Implement programs, activities, and procedures for parent involvement that are planned and implemented with the meaningful consultation of parents and are of sufficient size, scope, and quality;

—Develop written policies, after consultation with and review by parents, to ensure parents are involved in program planning, design, and implementation and make these policies available to Chapter 1 parents;

—Provide such reasonable support for parental involvement activities as parents may request;

—Convene an annual meeting for all parents of participating children (as is currently required) to explain the program;

—Provide Chapter 1 parents with reports on their children's progress and to the extent practical hold a parent-teacher conference with each Chapter 1 child's parents;

—Provide opportunities for regular parent meetings, if the Chapter 1 parents so desire, in order for them to have input into the program; and

—Provide parents with timely information about the program and make parents aware of the parental involvement and other relevant provisions.

As regards the second goal, the Committee bill contains a new emphasis on training parents to work with their children, an activity that is now permissible but has infrequently been implemented to a very meaningful extent.

The Committee made several modifications of existing parental involvement provisions to ensure that parents and teachers are encouraged and enabled to become fully cooperating partners in the educational success of students participating in Chapter 1 compensatory education programs. These include the expansion of the concept of local parental involvement to encompass programs, training, and materials which build the capacity of both parents and teachers to effectively assume this partnership role. Local school districts are allowed to hire parental involvement liaison workers to facilitate parental activities and communications between the home and the school. The new language enables local districts to develop or utilize existing special complementary curriculum materials which family members with limited time or formal education could use at home to complement and underscore the in-school learning activities of their children. Expenditures for reasonable and necessary costs attendant to parents participating in training sessions are also permitted, as is the training and support of teachers and other school staff to work with parents.

It should be noted that the Even Start program for parents and young children is another extension of this concept of training parents to work with their children.

In addition to the activities listed above, parental involvement activities may also include parent resource centers, use of parents as classroom volunteers, tutors, and aides, parent advisory councils, and other activities to enlist the support and participation of parents.

Strengthening parent involvement requirements is intended to ensure that local education agencies actively involve parents in their children's education, both at school and at home, as well as providing training to help promote parent participation. The bill establishes goals for parental participation and then gives school districts the flexibility of using various mechanisms to achieve these goals. One of these mechanisms involves reasonable and necessary expenditures associated with the attendance of parents at local training sessions and hiring parental involvement liaison workers and use of parents as classroom tutors and aides. If a school district chooses to use this mechanism for parental participation, then such a district should notify parents of the amount of funds which would be available for these purposes. Due to accounting problems, it is not intended that teachers' or administrators's time and salaries be included in any such estimates of expenditures.

Parent programs must be coordinated with the Adult Education Act, and information, programs and activities for parents must be provided in a language or form which the parents understand. Such information may be transmitted in writing or orally.

The bill defines parent to include a legal guardian or other person standing in loco parentis. It is the intent of the Committee that the term "in loco parentis" refers to persons designated by the parent or legal guardian of the child or children participating in the Chapter 1 program who can represent the parent or legal guardian at all activities which are permitted under Section 1016(b), (c), and (d) of the Act. These persons include grandparents, aunts, uncles, and older siblings of children in Chapter 1 programs. The Committee recognizes there are rare occasions when the parent or legal guardian has no relatives who can represent him or her. In these instances, the parent or legal guardian can designate a non-relative, provided a written statement is provided which clarifies this occasion. The Committee also intends that the particular parent or legal guardian must provide a written statement of the designated parent representative and for what period of time this person is to serve in the place of the parent or legal guardian.

8. Provisions for Participation of Private School Children

H.R. 5 maintains the requirement that LEAs provide services on an equitable basis to educationally deprived children enrolled in private elementary and secondary schools. This has been a basic requirement since the enactment of Title I of the Elementary and Secondary Education Act of 1965 and the Committee, in section 1017, affirms its strong commitment to ensuring that these children will receive the needed services to which they are entitled.

The Committee recognizes that there have been and continue to be disruptions in and decreased levels of the educational services provided to private school children as a result of the Supreme Court's decision in *Aguilar* v. *Felton* on July 1, 1985. Three new provisions, discussed below, have been added to section 1017 which are intended to ameliorate these adverse effects.

a. Timely and meaningful consultation.—The Committee has included in section 1017(a) a requirement that, in making provisions for including services for private school children in Chapter 1 programs, LEAs must consult on a timely and meaningful basis with appropriate private school officials. At present, the statutory language in section 557 of ECIA does not require local educational agencies to consult with private school officials when developing programs for eligible children enrolled in private schools. Timely and meaningful consultation is essentual for the development of practical and effective delivery systems. Including a specific statutory requirement will help to insure that such consultation will take place. In developing regulations implementing the requirement of "timely and meaningful consultation," the Department of Education should be guided by the answers provided to questions 24 through 28 of the June 1986 *Guidance on Aguilar* v. *Felton and Chapter 1 Of the Education Consolidation and Improvement Act (ECIA)* issued by the Department of Education, which incorporates principles from existing regulations not applicable to Chapter 1. (See 34 C.F.R. 76.652)

b. Timely resolution of complaints.—A new provision requires the Department of Education to develop and implement written procedures for receiving, investigating and resolving complaints, within 120 days of receipt, relating to failures by LEAs to meet their statutory obligation to provide equitable services to children enrolled in private schools. To insure that educationally deprived children in private schools do not go without needed services for long periods of time, it is critical that the statute contain a mandatory time in which to investigate and make a determination on how such complaints will be resolved. This is particularly so in the wake of *Aguilar* where there are large numbers of private school children not being served or being served inadequately. Determinations of the Secretary pursuant to this new provision would be subject to the 45-day notice requirement in section 1017(b)(4)(A).

c. Capital expenses.—The Committee recognizes that there has been a substantial decrease in both the numbers of, and quality of services provided to, private school children participating in Chapter 1 programs since the Supreme Court's decision in *Aguilar* on July 1, 1985. In the 1985–86 school year participation nationwide decreased by about 35% (approximately 50,000 students) from pre-

Aguilar levels. Slight increases were made during the 1986–87 school year, but the level of participation remains unacceptably low.

The financial strain on LEAs to pay for alternative delivery systems for private school children contributed significantly to the decrease in participation. Recognizing this the Committee has added a new section 1017(d) which authorizes additional funds, $30 million in fiscal 1988, and such sums as are necessary in 1989 through 1993, to be used solely to assist in funding increased capital expenses incurred by LEAs since July 1, 1985 in meeting their statutory obligations to provide equitable Chapter 1 services to children attending private schools. The Committee intends that the additional funding be used solely to reimburse school districts for prior increased capital expenses and to pay for new increased capital expenses, as defined in new section 1017(d)(4), and that the additional funding not be taken into account for the purposes of meeting the equitability and equal expenditures requirements of section 1017(a).

The Committee's intent in adopting the new provision is to provide sufficient funding to enable needy LEAs, to the extent possible, to restore Chapter 1 services for private school children to their pre-*Aguilar* levels and quality. It is not the Committee's intent that the additional funds be used to maintain the status quo in LEAs which are now serving proportionately fewer private school children than were served prior to *Aguilar*. However, if an LEA has restored services to private school children to their pre-*Aguilar* levels and quality, then it can be reimbursed for increased capital expenses made from Chapter 1 funds in reaching these levels and attaining this quality of the services.

Under section 1017(d)(1) SEAs are required to distribute funds to applying LEAs on the basis of need. In evaluating an LEA's needs, the Committee's intent is that SEAs may consider a number of relevant factors. One method an SEA could use would be to consider: (1) the extent to which additional funding will be used by the LEA to increase the number of, or quality of services provided to, private school children, and (2) using the 1984–85 school year as a basis (with adjustments for inflation), amounts expended by the LEA in providing services to private school children. In order to show need for additional capital expense funds, an LEA must be able to demonstrate that, without the additional funds, it will spend at least as much as it would have spent in 1984–85 (adjusted for inflation) to serve private school children. Of those LEAs that meet this threshold requirement, priority should be given to those LEAs whose applications demonstrate that additional funding will result in the greatest increases in the number of, or quality of services provided to, private school children. LEAs which have provided and are providing the same level and quality of services as in 1984–85 may apply for additional funds to offset increased capital expenses incurred in prior years.

Another method an SEA could use would be for the SEA to fund local educational agencies which qualify on a "cutoff" point on descending rank order of need that would be compiled on the basis of those local educational agencies incurring the highest percentages of capital expenditures for compliance with *Aguilar* v. *Felton* in relation to their respective basic local grant. To determine the amount of funding to any local educational agency, a similar objective system should be established, such as awarding each educational agency an amount of the State allocation which is in proportion to the cost of compliance with *Aguilar* relative to the cost of *Aguilar* experienced by all qualifying local educational agencies in the State.

Whichever method is chosen by the SEAs, the Committee reiterates that the purpose of this provision is to restore the degree of participation of private school children in Chapter 1 as close as possible to the time before the *Aguilar* decision. If an LEA has achieved that goal, then any retroactive reimbursement can be placed into the Chapter 1 program for the benefit of services to all children.

The Comptroller General is directed to conduct a study of the effects of the *Aguilar* v. *Felton* decision on Chapter 1 services to private schoolchildren and to report those findings to Congress by April 15, 1989, and annually on that date thereafter throughout the life of the bill.

9. Other Provisions

a. Funds distribution.—Aside from the concentration grant provisions discussed above, the bill retains the existing formula for distributing Chapter 1 LEA grants with three exceptions:

(1) A new provision is added guaranteeing small States a minimum basic grant of one-fourth of one percent of the basic grant funds. This provision applies only after the concentration grants are fully funded at $400 million and only when the basic grant appropriations exceed the FY 1987 level. There is also a provision holding all the other States harmless at their FY 87 levels and limiting the annual increase for any State affected by this minimum to 50% annually. Thus, the provision has no effect on current money.

(2) The distribution of a small portion of funds on the basis of the 1975 Survey of Income and Education is eliminated.

(3) The definition of poverty for purposes of determining which children are from low-income families is changed from the 1970 definition to the definition used in the most recent decenniel census. The redistribution effects of these latter two provisions are minimal.

b. Uses of funds.—The bill clarifies that as part of a Chapter 1 program, funds may be used for the following purposes that are not expressly listed in the current law (subject, of course, to the general Chapter 1 requirements that funds be for supplemental services to meet the special educational needs of educationally-deprived children):

—Books and school library materials for Chapter 1 students;
—Employing special instructional personnel, school counselors, and other pupil services personnel;
—Training teachers, librarians, pupil services, and other personnel and early childhood education professionals;
—Parental involvement activities; and
—Planning and evaluation.

The bill also encourages year round and intensive summer programs.

c. Fiscal requirements.—H.R. 5 fiscal requirements are largely the same as current law. One exception is the clarification of the comparability requirement. H.R. 5 contains new provisions that explicitly state what is currently implied, or offer additional guidance about how to implement comparability:

—Require LEAs to implement the comparability policies which have been filed as assurances with the State;

—Require LEAs to develop procedures to comply with comparability;

—Require LEAs to maintain annual records documenting comparability;

—Exempt LEAs with only one building per grade span from comparability requirements; and

—Require SEAs to monitor comparability and to withhold funds from LEAs which are not in compliance only to the degree by which they have failed to comply.

The bill reinstates the provision in Title I (deleted by Chapter 1) which prohibits States from taking Chapter 1 funds into consideration when determining an LEA's eligibility for or amount of State aid.

H.R. 5 clarifies which special State or local programs are excluded from the anti-supplanting and comparability requirements and reinstates the Title I provision that the Secretary or the SEA approve the applicable State or local program in advance.

It should be noted that H.R. 5 states a position of Federal neutrality on the issue of whether LEAs should use pullout or in-class Chapter 1 programs. Such decisions should be based on which approach is the most educationally sound, given local circumstances.

d. Carryover of funds.—A new provision phases in limits on the amount of Chapter 1 funds LEAs can carry over from year to year. In FY 1988, carryover will be limited to 25%, then decline to 15% in the following years. There is an exemption for LEAs with allocations of less than $50,000, and any district may request the State to waive the limit for good cause once every three-year application period. The limitation does not apply in any fiscal year in which supplemental Chapter 1 funds are appropriated. The Committee hopes through these provisions to ensure a consistent expenditure of Chapter 1 funds and to curtail the temptation to carry over too large of an amount.

e. State administration.—The Committee adopted two provisions affecting the amount of State administrative funds for Chapter 1. First, it raised the minimum amount for State administration from $225,000 to $300,000. These small States have not had cost of living increases in several years, even when the Chapter 1 appropriaton has gone up. Second, the bill limits the amount of State administrative funds that can be used for indirect costs to 15%. The Committee has been informed about instances where States have attributed in excess of 40% of the Chapter 1 administrative money to indirect costs, which means a much smaller amount than was intended is available for direct administration of Chapter 1.

The Committee also clarified States' authority to make rules and regulations affecting Chapter 1. Seemingly contradictory language in Chapter 1, ECIA was rewritten to make clear that States may issue regulations pursuant to State law which are not inconsistent with the provisions of Chapter 1 law, Chapter 1 regulations, or other Federal laws and regulations. However, the bill circumscribes areas where the State may not adopt rules, regulations, or policies which limit local Chapter 1 discretion. This include the following areas: grade levels to be served, basic skills areas to be addressed; instructional settings or teaching techniques; certified or licensed instructional staff to be employed; or other essential support services to be provided. In adopting this provision, the Committee was reacting to testimony from the hearings indicating that some States were preventing LEAs from offering certain basic subjects, serving certain grades, or using certain instructional models in Chapter 1. These provisions are not meant to interfere with a State's authority to review and approve LEA Chapter 1 applications or to ensure that funds are used in accordance with Chapter 1 requirements.

The bill also assures that State rule-making will be consistent with local concerns by requiring State rules and regulations to be reviewed by a committee of practitioners before being issued.

f. Federal administration.—The Secretary must also convene regional panels of practitioners before publishing proposed regulations for Chapter 1.

The Secretary has several other responsibilities under the bill, in addition to those mentioned earlier in this report. The bill authorizes $12 million for FY 88 and such sums for the five following fiscal years for the Secretary to carry out all the Federal Chapter 1 evaluation, studies, technical assistance, and research activities and responsibilities under this legislation. New responsibilities of the Secretary not mentioned earlier include:

—Preparing and distributing a national policy manual for Chapter 1. This had been a requirement in previous authorization legislation but was never implemented. The Committee directs the Secretary to comply with this provision expeditiously;

—Responding, within 90 days, to written requests from SEAs and LEAs regarding Chapter 1 policies, questions, or interpretations. This provision is intended to work in tandem with the new audit provisions in Title IX of H.R. 5;

—Formally reviewing State and local administration in such areas as policies, guidance materials, monitoring and enforcement activities, and detecting and resolving compliance problems; and

—Contracting with the National Assessment for Educational Progress for a national longitudinal study of the impact of Chapter 1 on children over the long term. Funding for this study shall come from the Secretary's national Chapter 1 evaluation and studies fund, not from NAEP's own contract funds.

H.R. 5 continues the current provisions with respect to applicability of the General Education Provisions Act, except that the section numbers of Chapter 1 which supersede certain GEPA provisions are updated in conformance with the new section numbers of H.R. 5.

g. Assignment of personnel.—The provision relating to use of public school personnel, fully paid with Chapter 1 funds, has been rewritten to provide additional flexibility to local educational agencies. The provision will allow Chapter 1 paid staff, on a limited basis, to participate in activities related to the operation of the school in the same manner as other personnel not paid with Chapter 1 funds. The word "rotating," which appears in the current Chapter 1 statute, has been dropped, making clear that certain standard duties, such as homeroom supervision, may be carried out. The Committee also is aware that certain other duties, such as service on curriculum committees involving more than one school, may also be carried out by school employees. To the extent that these duties are carried out by non-Chapter 1 personnel, they too may be performed by fully paid Chapter 1 personnel, up to the maximum time allowed. In addition, the maximum amount of time Chapter 1 personnel may be used to carry out these activities has been changed from 10% to one period. This is to allow use of Chapter 1 teachers for those activities, such as study hall supervision, whose time may vary from one school to another.

Finally, it is not necessary that this limitation be met on a daily basis. Personnel may be used, on a given day, for several hours of duties not limited to Chapter 1. However, in the aggregate, those duties may not exceed the equivalent of one period per day.

Audits performed by the Department of Education in the recent past resulted in audit exceptions being made against States when they used Chapter 1 funds to train personnel who were then used interchangeably between comparable Chapter 1 state-funded programs and the Federal Chapter 1 programs. While the Committee firmly believes in the full and effective use of resources available to States and local educational agencies in providing compensatory education to disadvantaged children, including the use of Chapter 1 trained personnel to provide services to those children in state-funded compensatory programs, the Committee agrees with the Department that such use should not be allowed without States being required to maintain appropriate records. Therefore, the Committee has authorized a new Section 1453, Assignment of Personnel, which gives States and local educational agencies the flexibility they should have in this respect, but requires such States and LEAs to maintain time distribution records reflecting the actual amount of time spent by each such employee, and that such records be signed by the responsible supervisor of those employees. This new provision in the law also requires that such expenditures be charged, on a pro-rata basis, to both programs as appropriate.

C. Chapter 1 Migrant Education Program

1. Background

The Chapter 1 migrant program authorizes grants to SEAs for special programs meeting the needs of children of migratory workers. This program was first enacted in 1966 in recognition of the particularly difficult educational problems migrant children face.

The dropout rate for migrant students is extremely high; the last study of the national situation done in 1974 estimated the national dropout rate for migrants at 90 percent. The typical migrant child lags 6 to 18 months behind his expected grade level. Many migrant children are very poor, and English is not their primary language. Their mobility retards educational progress; they are often difficult to find and to serve.

Because of the transient nature of the population, the program is administered through the SEAs, which make project grants, usually to LEAs. Migrant funds are distributed to States based on the number of currently and formerly migrant students (those who were migrant within the last five years), with full-time equivalent counts of those who reside in a State part-time. Estimates of the numbers of migrant children are based primarily on information from the Migrant Student Record Transfer System.

The program provides services to currently migrant children and to formerly migrant children with priority services given to currently migrant children. Approximately 350,000 students receive special basic skills instruction and other support services, to improve their educational participation and achievement. In addition to elementary/secondary school-year programs, the statute authorizes preschool and summer programs.

The statute also authorizes contracts with SEAs for a Migrant Student Record Transfer System and other coordination activities. All of these programs and activities help provide continuity of instruction for students who travel from State to State and also provide for the transfer of vital academic and health records.

H.R. 5 continues the migrant program in its present form. The Chapter 1 migrant program, it has been demonstrated, is a successful, viable means of helping this group of students overcome their disadvantages. During the program's 20-year history, this Nation has made tremendous strides in improving migrant childrens' achievement and attendance, lowering the dropout rates (according to recent infomation, the migrant student dropout rate may have declined to around 50 to 60 percent), preparing students for higher education, and creating a national student record system and a coordinated national approach to serving migrants.

Within this context, H.R. 5 makes several amendments which the Committee believes will strengthen the program. These changes are discussed below.

2. Authorization and Funding

H.R. 5 retains current law by establishing that the migrant education program, along with other Chapter 1 State administered programs, be given first priority for full funding when Chapter 1 program appropriations are insufficient. The Committee wishes to reaffirm its position that the scarce Federal dollars should be directed to those children who have been found most in need of special services, such as those identified and served by the migrant education program.

Under the Education Consolidation and Improvement Act of 1981, funding of the migrant education and other State administered programs was capped at 14.6 percent of the total amount appropriated for all Chapter 1 programs. This cap remained in effect through fiscal year 1984. However, in subsequent years the Appropriations Committee has continued the practice of capping these three State administered programs in a similar fashion. The Committee notes that this funding cap has harmed the migrant education program and urges increased funding for all Chapter 1 programs, including State administered programs.

In fiscal year 1987 the migrant education program received an appropriation of $257,458,400 to provide services to children aged 5 to 17. This amount represents a 7 percent loss in constant dollars over the past 20 years to this program. Moreover, it is half the amount needed to serve the number of children who are identified as eligible for services—and there are likely many others not identified because there is no incentive to increase the pool of eligible children when funding is so inadequate.

The bill continues, with a few changes, the current formula for distributing funds to the SEAs for programs for migratory children. This formula takes into account the number of migrant children residing in the State (on a full-time equivalent basis) multiplied by an average per pupil expenditure factor.

One of the major changes to the allocation formula is to extend the age range of those children counted for purposes of allocating funds among the States. Currently, States may serve children between the ages of 3 and 21, but only those migrant children between the ages of 5 and 17 are counted for funding purposes. By expanding the age range being counted for funding purposes, the Committee hopes to draw attention to the need to correlate to some degree those children who are served with the amount of funding provided. Furthermore, this provision highlights the need to establish a national policy which recognizes and addresses the severe educational needs of children of migrant workers, beginning before they enter formal schooling and continuing well beyond the average age of graduation from high school.

3. Student Eligibility

The bill allows a 5 percent error rate in a State's determination of student eligibility. This change from current law helps to make the migrant program statute consistent with other Federal programs. The Committee believes SEAs should take reasonable steps to verify the eligibility of children. The 5 percent error rate allows a degree of variability because there is some inconsistency in the reliability of data sources when obtaining information on these children.

4. Parental Involvement

The bill encourages parents to continue their strong participation in all aspects of their children's education by requiring that the migrant education program be planned and operated in consultation with parent advisory councils (for full school year programs). Programs of lesser duration are not required to consult with councils but must still meet the general parental involvement provisions of the Chapter 1 LEA program. Parent councils are one way of bringing about the involvement of parents in the educational process of migrant children. At the same time, State and local educational agencies will be given flexibility to design parent activities which conform to the length of their migrant programs.

The Committee wishes to stress that the definition of parent advisory council under Section 1471(20) which states that councils are to be composed "primarily of members who are parents of children being served . . . and who are elected by such parents" is not intended to reflect a change from current law and applies to councils at the local educational agency, project area, project school level and State level.

5. *Coordination with Other Programs*

The bill expands the requirement that the migrant program be coordinated with other Federal programs from which migrant children can benefit. The intent of this provision is to formalize the relationship between the migrant education program and other Federal programs. It would also encourage migrant educators to provide referral services appropriate to the children being served and to identify prospective candidates who may wish to continue their education beyond high school and who could benefit from programs such as the College Assistance Migrant program.

6. *Evaluation*

The bill requires that the migrant programs be evaluated in terms of their effectiveness for all students. In the case of formerly migrant students, the bill requires that this evaluation also include information on whether achievement gains are sustained. The Committee recognizes that it is extremely difficult and costly to attempt to gather sustained-gains information on mobile, currently migrant students who move among districts during the school year. In addition, achievement data are not the only measure of whether the program is successful; such factors as improved school attendance for currently migrant children may also be appropriate. Therefore, sustained achievement gain measures are made applicable only to migrant students who have been served for at least 2 years in a full school-year program.

7. *State Coordination*

The bill continues the authority for the Secretary to make grants and contracts to SEAs for activities to improve the interstate and intrastate coordination of migrant programs. The Committee wishes to note the accomplishment of the Migrant Student Record Transfer System in monitoring accurate and complete records on the health and educational status of migrant children. In order for this system to be effective, each program and State must participate in providing up-to-date information on the children being served. The Committee wishes to encourage full participation by all States in providing the MSRTS complete and timely information and in utilizing the system to its best advantage. At the same time, the Committee wishes to note that some concerns have been expressed about high administrative costs which may be attributed in part to record keeping. The Committee encourages States, State Directors of Migrant Education and the MSRTS to attempt to identify and reduce administrative costs wherever possible.

8. *Commission on Migrant Education*

Finally, the bill establishes a Commission on Migrant Education. Among other things, this Commission will examine the changing demographics of the migrant student population in an effort to assure that the patterns of migrancy are anticipated and the children are served to the best extent possible. In addition, the Commission would explore the need to establish a National Center for

Migrant Affairs to help coordinate and disseminate information pertinent to migrants. In March 1987, the Department of Education received a report from the Policy Studies Associates, Inc. which noted "there is no central repository either at Department of Education or elsewhere, for products associated with the Section 143 grants (coordination of migrant activities) program." This would indicate that researching such a center would be productive. The Commission would also explore various aspects of the migrant education program to help develop a blueprint of changes that ought to be made so that this program continues to meet the educational needs of migrant children over the remainder of this century.

9. Handicapped Migrant Children

The bill provides that the Migrant Student Record Transfer System include the "individualized education program" of any migrant special education student. This provision is not intended to affect the current requirements governing the confidentiality of a special education student's records, including confidential information which may appear on the individualized education program.

D. Chapter 1 State Handicapped Program

1. Summary

Subpart 2—Programs for Handicapped Children—of Chapter 1 of the Education Consolidation and Improvement Act, in general, was amended in the following manner:

To indicate that the State Education Agency (SEA) is eligible to receive a grant under this subpart; current law states "a State agency";

To add specific requirements for a receipt of a grant;

To change the date of the child count from October 1 to December 1, to correspond to the child count date for Part B (P.L. 94-142) of the Education of the Handicapped Act (EHA);

To simplify the application procedures for local educational agencies (LEAs) which serve children transferred from State operated or supported programs, when such an application reflects services to 5 or fewer children or when such an application has a single purpose;

To add assurances on the use of funds and examples of acceptable uses of funds;

To add reporting requirements for within-State applications;

To add a definition of eligible children; and

To require a General Accounting Office study of the implementation of the State operated program for handicapped children and its relationship to Part B and Part H of EHA.

The purposes and intent of these amendments are outlined below, following an overview of the Chapter 1 Handicapped Program and a review of pertinent testimony.

2. Background

In November, 1965, title I of the Elementary and Secondary Education Act was amended to provide the first Federal support to state agency handicapped programs. It has continued since that time, and is now authorized through Chapter 1 of the Educational Consolidation and Improvement Act (ECIA) which must be reauthorized this fiscal year.

The purpose of this program is to provide Federal assistance to States to help with the education of handicapped children in State operated schools or programs or in programs supported by a State through contract. If a child served with these funds transfers from such a program into a local educational agency program, these funds remain available to use for this child. Such a child is referred to as an LEA transfer.

There is no time limit on transfer funds. Once a child is counted as a Chapter 1 handicapped child, the child may continue to be so counted indefinitely, regardless of where the child is served.

In the early years of this program much of the money was used to educate handicapped children in state institutions or schools for the mentally retarded, blind, or deaf. Now the use of funds is more diversified. In addition to the traditional uses of these funds, they are presently used to support preschool programs for the handicapped, educational programs for multiply-handicapped and low-incidence handicapped children, some of whom are served in public schools; and finally, to support handicapped children in public schools who at one time were served in State operated or supported programs.

As of October 1, 1986, 255,420 children were served with these funds. The appropriation for FY 1987 (which is based on this count) is $150,170,000; the amount of assistance generated per child is estimated to range from $445 to $668 (the actual amount is influenced by each State's average per pupil expenditure). The average assistance per child is $588.

3. Testimony

Two witnesses made recommendations specifically on the Chapter 1 Handicapped Program. On February 10, 1987, Richard Shaatman, Director of Special Education, Franklin NW Supervisory Union, Swanton, Vermont, testified in St. Johnsbury, Vermont before a joint hearing of the Senate Subcommittee on Education, Arts and the Humanities and the House Subcommittee on Elementary, Secondary, and Vocational Education. On March 5, 1987, Marc Hull, Chief, Special Education Unit, Vermont Department of Education, testified in Washngton, D.C. before the House Subcommittee on Elementary, Secondary, and Vocational Education. Both witnesses gave several examples of how Chapter 1 Handicapped funds are being used to maintain and expand opportunities for handicapped children in regular educational environments, and in the case of Dr. Hull, examples of how such funds are being used to provide supported employment experiences for handicapped youth in Vermont.

Each witness gave recommendations related to reauthorization of the Chapter 1 Handicapped Program. Dr. Shaatman endorsed the continuation of the LEA transfer provision, increased monitoring of the program at the State level, and the adoption of a State plan for these funds.

Dr. Hull urged simplification of application procedures, making reporting requirements consistent with those for Part B of EHA, clarification of fiscal requirements, updating evaluation requirements, and shifting administration of the Chapter 1 Handicapped Program to the State office which administers Part B of EHA (if such is not the case).

4. Amendments to the Chapter 1 Handicapped Program

The amendments to the Chapter 1 Handicapped Program of the Education Consolidation and Improvement Act are contained in sections 1221 through 1226 of H.R. 5, the School Improvement Act. These sections are an intact replacement for sections 146 and 147 in Chapter 1 of ECIA. Through these amendments program requirements are clarified, simplified, and made to correspond to reporting requirements of Part B of EHA. These amendments do not alter the funding formula for the Chapter 1 Handicapped Program. They maintain the rights and protections guaranteed to children participating in this program by Part B of EHA, and generally, update the legislative language to correspond to current practice and recent amendments to EHA.

a. Section 1221. Amount and eligibility.—This section has 4 main purposes: (a) to designate the SEA as the State agency that is eligible to receive a grant under the Chapter 1 Handicapped Program; (b) to describe the assurances and requirements that must be specified in the SEA's application for Chapter 1 Handicapped funds; (c) to delineate the funding formula; and (d) to specify the conditions for counting children transferring from a State to a local program.

In dispensing Chapter 1 Handicapped funds the Department of Education awards such funds to the SEA which then allocates the funds to various State agencies which operate or support programs and schools for handicapped children. These agencies, including the SEA, on the basis of approved applications for projects allocate the funds to such schools and programs; and to LEAs which have Chapter 1 Handicapped Program children who formerly were in such schools and programs (LEA transfers). The SEA is to distribute these funds on the basis of the Child Count for December 1 of the previous fiscal year.

Section 1221(b) of H.R. 5 delineates 8 assurances and 1 program requirement which must be included in the SEA application for Chapter 1 Handicapped funds. These requirements are additions to current law. The 8 assurances are contained in section 1221(b)(1) which specifies that in the application the SEA must give assurances that:

(1) All grant recipients within the State shall comply with Part B and if appropriate Part H of EHA; (2) the SEA shall monitor compliance with Parts B and H of EHA; (3) program and projects funded with Chapter 1 Handicapped funds shall be coordinated with those funded under EHA; (4) for fiscal year 1991 and thereafter the Chapter 1 Handicapped Program shall be administered by the same State Office responsible for administering Part B of EHA; (5) the SEA shall report annually the number of children served under the Chapter 1 Handicapped Program for each disability and age category as described in section 618(b)(1) of Part B of EHA; (6) the SEA shall report such children by educational placements described in section 618(b)(2), reporting separately for children served in (1) State operated, (2) State supported, and (3) LEA transfer pro-

grams; (7) the SEA shall report annually on the uses of funds and the allocations of such funds to various purposes; and (8) other information the Secretary may request.

By the provisions in section 1221(b)(1) the Committee wishes to emphasize three points: Children served under this program are entitled to all the rights and protections of children served under Part B, and if appropriate Part H, of EHA. The Committee expects the SEA to monitor to ensure that such children are receiving these rights and protections. The Committee intends that reporting requirements, services and by fiscal year 1991, the administration of this program, are consistent with those for Part B of EHA.

This section also adds a new requirement (section 1221(b)(2)) mandating that in the application the SEA ". . . set forth policies, procedures and guidelines for transferring children from State operated or supported institutions and programs and from separate schools and programs operated or supported by local educational agencies into regular educational environments operated by a local education agency." Such policies, procedures, and guidelines must be consistent with Part B of EHA and the regulations pertaining to the least restrictive environment provisions of Part B of EHA. The Committee expects the state to describe such policies, procedures, and guidelines for transferring children in its application for funding under this program. This requirement does not change but supports current law. For example, under section 612 (5) of EHA the State is required to establish:

> . . . procedures to assure that, to the miximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schools, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicapped is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. . . .

The Committee wishes to emphasize that by this amendment it does not expect or intend additions to or modifications of current regulations. Moreover, the Committee wishes to indicate that this amendment does not imply any quota for transfers of children, although the articulation of such policies, procedures, and guidelines should provide some momentum for dealing with the issue of handicapped children in segregated settings. The Committee expects that such policies, procedures, and guidelines should include the following principles: that placement decisions related to handicapped children should be made on an individual basis, and if the parents and school personnel agree, then such a placement is deemed appropriate.

The provisions in section 1221(c), relating to the funding formula, are a restatement of current law with two exceptions: the child count date is changed from October 1 to December 1; and the reference to "children in average daily attendance" is changed to "children enrolled". This latter change is a reflection of current practice. The former change is made so that the child count for this program will correspond to that of Part B of EHA. The Committee wishes to clarify that December 1 of the immediately preceding year is the date the Department of Education should use when computing Chapter 1 allotments for the States. This date will allow a timely disbursement of such funds and effective program planning for the ensuing year.

The provisions is section 1221(d) are a restatement of current law.

b. Section 1222. Program requirements.—This section gives program guidance to the SEA. It reaffirms the need to comply with Parts B and H of EHA, as well as subpart 2 of Part F of this bill. It clarifies fiscal and evaluation requirements. It simplifies application requirements for some LEAs, those with 5 or fewer Chapter 1 Handicapped Program transfers and those that intend to spend Chapter 1 Handicapped funds for a single purpose.

Section 1222(a) directs the SEA to use funds from this program for projects and programs which supplement the special educational needs of handicapped children and early intervention services for handicapped infants, and to do this in a manner consistent with Part B, and if appropriate Part H, of EHA.

The Committee wishes to clarify the applicability of Part H of EHA. Part H of the Education of the Handicapped Act is a discretionary grant program to encourage and assist States establish comprehensive, coordinated, multidisciplinary early intervention services for handicapped infants and toddlers from birth through age 2. It was added to EHA in 1986. States which choose to participate in this program are not required to fully comply with the rights, protections, and services provisions until the fifth year of participation. (The requirements for participation in this program vary during years 1 through 4 of such participation.)

Compliance with Part H by programs serving handicapped children between birth through 2 years, inclusive, counted for reimbursement under this subpart applies only at the time when Part H requirements are fully in effect in a State. Such time will vary from State to State. Until that time is reached in each State, handicapped children between birth through 2 years, inclusive, who are served with Chapter 1 Handicapped Program funds, are entitled to the rights and protections under Part B of EHA.

Section 1222(b) specifically requires that these funds be used to supplement the provision of special education and related services for handicapped children or early intervention services for handicapped infants. It is the Committee's intent that if a State has a mandate to serve a certain age group of children, then Chapter 1 Handicapped Program funds may be used only to supplement the provision of services to such children. The test for compliance with this provision is the following—if the Chapter 1 Handicapped Program funds were not available such children would still be receiving an appropriate education.

With section 1222(c) it is the Committee's intent that Chapter 1 Handicapped Program funds may not be used for any part of a program, project, activity or service which was funded with State or local funds the previous year unless the Secretary of Education grants a waiver.

With the provisions in sections 1222 (b) and (c), the Committee clarifies key fiscal requirements associated with this program. Such requirements are complementary to the mandate to provide handicapped children with a free appropriate public education as delineated in Part B (P.L. 94-142) of the Education of the Handicapped Act, allow flexibility in the area of initiating new or expanded activities, and reflect reasonable limitations with the "previous year" criterion.

Section 1222(d) requires that recipients of funds under this program collect and maintain information about their programs and projects that demonstrate that the children served benefited. The Committee expects that the methods and plans used to collect and maintain such evaluation information shall be influenced by the purpose(s) and size of the project, and therefore, view it as inappropriate to establish specific, inflexible evaluation requirements to be followed by all recipients of Chapter 1 Handicapped Program funds within the State. For example, it would be inappropriate to evaluate the level of mathematical achievement in severely handicapped students if the purpose of the project was to teach self-help skills.

Section 1222(e) allows the SEA at its discretion to grant an LEA which is serving children transferred from a State operated or supported program, to submit to the SEA a letter of request for Chapter 1 Handicapped Program funds instead of an application, under two conditions: if the LEA is serving 5 or fewer transfer children or intends to use these funds for a single purpose. In such a letter an LEA must also give an assurance that these Chapter 1 funds will be used to supplement the provision of special education and related services to the targeted children.

The Committee intends for this provision to serve two purposes. First, by leaving the option of a letter to State discretion, the provision will not undermine State efforts to encourage collaboration and cooperative projects among LEAs with limited number of eligible children. Second, the Committee hopes that LEAs which viewed the application process as onerous, will be given an incentive to participate by the letter option, and decide to request funds if conditions allow it. The Committee hopes that this change will lead to increased use of the LEA transfer provision, where appropriate.

c. Section 1223. Uses of funds.—This section is an addition to current law. The Committee believes that this addition will provide useful guidance to fund recipients.

This section delineates examples of acceptable uses of Chapter 1 Handicapped Program funds. The eleven examples are representative, but are not exhaustive. The examples were drawn from three sources—(1) SEAs, (2) professional and advocacy organizations, and (3) programs, schools, and projects which have shared information with the Committee. They reflect innovation, creativity, a commitment to the supplementary nature of the support, and an interest in expanding opportunities for handicapped children to participate with their nonhandicapped peers in a wide range of activities.

The Committee anticipates that in the future Chapter 1 Handicapped Program funds will be used to an increasing degree to foster new and expanded opportunities for handicapped children to participate with their nonhandicapped peers in a wide variety of educational settings and experiences. Such funds have historically been used to stretch and expand local and State capacity to improve the quality of educational opportunities for targeted children. The suggested uses of funds in this section reaffirms this precedent, and could contribute to improvements in the development of individualized education programs, personnel and parent training uses of educational technologies, such as new behavior intervention strategies, new learning techniques and curricula; and informing parents about educational placement alternatives and working with parents to select appropriate placements for their children.

The specific examples in section 1223 include the following: (1) services provided in early intervention, preschool, elementary, secondary, and transition programs; (2) the acquisition of equipment and instructional materials; (3) employment of special personnel; (4) the training and employment of education aides; (5) training in the use and provision of assistive devices; (6) the training of teachers and other personnel; (7) training of parents of handicapped infants, children, and youth; (8) training of nonhandicapped children to participate with handicapped children in joint activities; (9) training of employers and independent living personnel involved in assisting in the transition of handicapped children from school to the world of work and independent living; (10) outreach activities to identify and involve handicapped infants and children and their families more fully in a wide range of educational and recreational activities in their communities; (11) planning for such programs and projects assisted by Chapter 1 Handicapped funds.

d. Section 1224. Applications.—This section delineates the provisions related to within-State applications for Chapter 1 Handicapped Programs funds. It is an addition to current law. The section addresses general requirements, assurances to be included in within-State applications, and program information to be included in within-State applications.

Section 1224(a) addresses general requirements. A State agency or local educational agency must have an application approved by the SEA on file with the SEA. Such application for assistance may be for no more than a period of 3 years. It must describe the services, programs, and projects to be conducted with Chapter 1 Handicapped funds.

Section 1224(b) specifies 3 assurances that must be included in a within-State application. The 3 assurances are: an assurance that the applicant shall comply with Part B, and if appropriate Part H, EHA; an assurance that the applicant will conduct services, programs, and projects of sufficient size, scope, and quality to provide a demonstrable benefit to the children served; and an assurance to comply with reporting requirements in a timely manner.

Section 1224(c) lists program information which must be included in the application: the number of children served; the ages and handicapped conditions of the children served; and a description of the purpose(s) of the project and the method(s) of judging the effectiveness of the services, project, or program; specification of the services to be provided with Chapter 1 Handicapped Program funds; other information the Secretary of Education may request.

It should be noted that section 1221 sets forth the SEA requirements for initial receipt of Chapter 1 Handicapped Program funds.

This section 1224 sets forth application requirements for within-State disbursement. The Committee considers it to be helpful to delineate reasonable application requirements for within-State applications, and to distinguish such applications from the SEA application for the initial receipt of program funds.

e. Section 1225. Eligible children.—This section is a clarification of current law. Children who are eligible for services assisted through the Chapter 1 Handicapped Program are handicapped children from birth through 21 years of age for whom the State is legally responsible for providing education, who are participating in a State operated or State supported school or program for handicapped children, or who previously participated in such a program or school and are now being educated by local educational agencies. Other handicapped children may participate if children described in the previous sentence have been fully served.

The Committee intends that when a State is legally responsible for providing education to a child and the State delegates direct responsibility of a child's educational program to a local educational agency for administrative purposes, the State may count that child for the purposes of reimbursement under the Chapter 1 Handicapped Program.

For example, when a State is legally responsible for providing education to a child, and the State places the child away from his or her home community and delegates direct responsibility for a child's educational program to the local educational agency for administrative purposes, the child may be counted for the purposes of reimbursement under the Chapter 1 Handicapped Program.

The Committee wishes to clarify that the determination of whether a State is legally responsible for providing education to a child in a State operated or State supported program is not affected by the amount of financial support that a State contributes to a child's education or whether that financial support assists in the payment of administrative or educational costs.

f. Section 1226. General Accounting Office study.—This section directs GAO to study the implementation of the Chapter 1 Handicapped Program and to study its relationship to Parts B and H of EHA, to reporting to appropriate Congressional Committees on its findings by January 30, 1989.

The Committee is interested in many issues, including but not limited to, the following: a comparison of various educational placements under EHA and the Chapter 1 Handicapped Program, especially on the tendency to use segregated settings; the extent of uniformity in the administration of the program by the Department of Education and the consistency in guidance from the Department to program participants; an assessment of whether or not funds generated by Chapter 1 Handicapped Program children are being used to assist with their education in a manner consistent with program provisions; and an evaluation of whether these provisions, particularly the LEA transfer provision, are being implemented in a manner consistent with the intent of Congress.

E. Chapter 1 Neglected and Delinquent Program

1. Background

Since the enactment of P.L. 89-750 in 1966, the Title I/Chapter 1 legislation has authorized grants to State agencies for the education of neglected and delinquent children. This program involves only those neglected and delinquent children and youth for whose education State agencies are responsible. Such children for whom education is provided by local educational agencies are included—both in terms of being counted in the allocation formula and eligibility for Chapter 1 services—in the Chapter 1 LEA basic grant program. Those served under the State agency program include children and youth residing in State-supported orphanages or similar institutions for neglected children, detention centers for juvenile delinquents, and—if under age 21—in adult correctional facilities. As with other Chapter 1 programs, the State agency program for the neglected and delinquent is intended to provide supplementary educational services to this very disadvantaged group of pupils.

The program currently serves about 60,000 students, approximately 74% of those eligible, according to data from State reports. Of these students, about 33,000 are in juvenile delinquent facilities, about 23,000 are in adult correctional facilities, and 3,800 are in institutions for the neglected. In 1983-84, 588 facilities received Chapter 1 funds.

The typical participant is a male in his mid to late teens, who has dropped out of school and has a low-achievement level. Most participants receive basic skills instruction, with some funding also supporting vocational education and guidance services.

The neglected and delinquent population continues to suffer from extreme educational need and is all too often "neglected" as well in the distribution of State and local resources. A study of the Chapter 1 State neglected and delinquent program conducted by the Systems Development Corporation (SDC) found a high degree of educational disadvantage among virtually all youths in a representative sample of institutions. An overview of recent research on this program by Policy Studies Associates found that in adult correctional facilities, 46% of the inmates had one to three years of high school and 25% had less than a ninth grade education. According to a GAO study, nearly half of these institutionalized youth could be classified as handicapped, as well as educationally disadvantaged.

The wide dispersion of youth among different types of institutions, the high rate of student turnover, the social needs of the population, and the limited resources devoted to their education from other sources contribute to their educational problems. Most such students continue to fall further behind in grade level equivalency, and many never complete school.

For participating students, the level of educational services provided by Chapter 1 neglected and delinquent programs is relatively limited, largely due to funding constraints. According to the SDC report, the average period of institutionalization was six months, during which a typical Title I/Chapter 1 pupil would be scheduled for three hours of reading and 2.5 hours of mathematics instruction per week. Title I/Chapter 1 provided about one-third of the total educational funding for this population.

Even with the limited funds and instructional time, program administrators reported several positive program effects, such as greater emphasis on basic skills, regular needs assessments, and individualized instruction.

The Committee bill contains several amendments designed to improve services to this very needy population.

2. Funding

H.R. 5 continues the provision requiring the State neglected and delinquent program to be fully funded "off the top" of the Chapter 1 appropriation. This provision is intended to emphasize the need for increases in Chapter 1 neglected and delinquent appropriations.

Although a cap on the funding of State agency programs enacted as part of the 1981 Omnibus Budget Reconciliation Act was lifted after fiscal year 1984, the Appropriations Committees have continued to freeze funding for this program. In fact, appropriations for the neglected and delinquent program have remained virtually the same—hovering around $30 million—since 1977. Thus, the program has suffered a tremendous loss in purchasing power during the past decade. Even without inflationary adjustments, the program's current funding of $32.6 million is below the 1981 level of $34 million.

3. Eligible Institutions

The Committee bill makes clarifications in the types of programs eligible for neglected and delinquent funds. Amendments make clear that if the State is responsible for providing free public education for children in neglected and delinquent institutions or adult correctional institutions, programs for those children can be funded under this Chapter 1 SEA program. This includes situations where the SEA is responsible but is not providing the services directly, such as where services are provided under contract with a LEA or other entity or by other arrangement with a State agency. These programs may also cover students who were placed voluntarily rather than by court order.

H.R. 5 also specifies that children attending community day programs for neglected and delinquent children are eligible.

4. Supplement, Not Supplant

The bill retains the provision requiring the Chapter 1 neglected and delinquent services to be supplementary to those provided with State and local funds, but contains a special interpretation of how this provision is to apply to State and neglected and delinquent programs.

Both a GAO study and the aforementioned SDC study noted that program administrators commonly criticized what they deemed to be inappropriate or unnecessarily rigid interpretations of the antisupplanting provision in a setting where virtually all youth are educationally disadvantaged and have a wide variety of serious educational, health, and social service needs.

Consequently, the Committee bill clarifies that neglected and delinquent programs which are supplementary in terms of the total number of hours of instruction students are receiving from State and local sources shall be considered in compliance with the anti-supplanting provision without regard to the subject areas in which instruction is given.

5. Evaluation

As noted earlier with regard to migrant students, it is difficult to assess the effectiveness of neglected and delinquent programs purely in terms of educational achievement, let alone to evaluate whether achievement gains are sustained. Given the program's high pupil turnover, short learning exposure time, the students relatively short stays in the institutions, large educational deficits to overcome, lack of institutional commitment to educational (as opposed to disciplinary or custodial) goals, and lack of funding, large achievement gains may be unrealistic. Thus, while maintaining a requirement for annual evaulation, the bill adds several other factors that may be considered in neglected and delinquent program evaluations, including students' ability to maintain achievement credit and to make the transition to a regular, LEA program. It also makes inapplicable the requirement for evaluating whether achievement gains are sustained.

6. Transition Services

H.R. 5 also seeks to improve the transition of neglected and delinquent students to regular classroom programs. This goal is very important, since a Departmental study found that 90% of school-age ex-inmates failed to complete a semester of school following their release. Progress made under Chapter 1 can be quickly negated if there is inadequate or non-existent follow-up.

Both the SDC and GAO studies were critical of a lack of transition services for those released from institutions for the neglected and delinquent. A special, separate authorization of 5% of the aggregate neglected and delinquent appropriation, to be used by the Secretary for transition services, was created in the Education Amendments of 1978 (P.L. 95-561); however, funds have been appropriated for the transition services program only in fiscal years 1981 and 1982.

The Committee bill revises this provision to allow SEAs to provide transition services with up to 10% of their State grants. This will bypass the need for a separate appropriation, which is unlikely to be provided.

In addition, the Chapter 1 LEA program is amended to facilitate transition services for neglected and delinquent children. Such children who participate in the SEA program in the previous two years are to be considered eligible for Chapter 1 LEA services.

7. Handicapped Neglected and Delinquent Children

The bill requires that records of neglected and delinquent students transferred among State and local educational agencies shall include the individualized education program of students who have them.

It also provides that neglected and delinquent children under the State program who are also eligible for the Chapter 1 State handicapped program may be counted under both programs for formula purposes and may be served under both programs.

CHAPTER 2—FEDERAL, STATE AND LOCAL PARTNERSHIP FOR EDUCATIONAL INNOVATION

A. Background

The passage of an educational block grant as part of P.L. 97-35 in the 1st Session of the 97th Congress constituted a major change in the Federal role in elementary and secondary education. Effective with the 1982-83 school year, 20 fiscal year 1981 appropriations and over 40 authorizations were consolidated into a single block grant to State and local education agencies (LEAs), Chapter 2 of the Education Consolidation and Improvement Act of 1981.

Under this new law, funds are distributed to States on the basis of their school-age population, with at least 80 percent being passed through to LEAs by State-developed formulas. Educational agencies are allowed to use their funds for any of the over 30 approved activities. Most of these allowable uses of Chapter 2 funds derived from the purposes of the antecedent programs. The provisions of Chapter 2 are grouped under three program subchapters—basic skills development, educational improvement, and support services. State and local education agencies are allowed the maximum degree of flexibility in choosing how their grants would be used within these categories. Chapter 2 has thus become a Federal source of funds to meet locally identified educational needs and priorities.

In field hearings held around the country and hearings in Washington, DC, the Education and Labor Committee heard strong endorsements from parents, students, teachers and administrators for continuation of the Chapter 2 program. Specifically, witnesses consistently requested that Congress retain the flexibility that currently exist in Chapter 2.

Without question, Chapter 2 is broadly supported. Studies of the program and State reports submitted to the Committee make clear that the program has enabled school districts to strengthen their instructional programs in ways they could not have done without this support—purchasing essential instructional materials and equipment, enhancing the quality of school libraries, providing staff development and curriculum development, funding support services, initiating innovative projects. However, the Committee has also taken note of several studies and other new evidence suggesting how the programs can be improved. Without restricting the flexibility that has made Chapter 2 so popular, the Committee bill takes into account the following new evidence related to Chapter 2.

First, some studies have been critical of Chapter 2's "unfocused" nature. The Committee did not wish to retarget Chapter 2 on a few specific areas, as has been proposed from some quarters. The Committee's response has been to make Chapter 2 a better vehicle for school improvement by recasting the uses of funds in general terms, but with an identifiable theme of improving quality and promoting innovation. These changes are in keeping with the national reports that urge the Federal government to take a leadership role in school excellence and reform.

Second, the Committee has sought to get the best available information on the uses of the Chapter 2 State set-aside funds. According to a summary of State reports prepared by the Department of Education, States use the State Chapter 2 set-aside for a variety of purposes, including administration of the program itself, technical assistance to LEAs, professional development and curriculum development, basic State management functions, supporting State school improvement programs and many others.

In order to examine more closely the State uses of State Chapter 2 funds, Chairman Hawkins, Congressman Goodling, and Congressman Obey had requested the General Accounting Office to examine the question of what proportion of State Chapter 2 funds was being used to support State educational agency administrative functions. According to their report issued in May, 1986, "GAO was unable to estimate the amount of block grant funds used for administration due to the absence of standardized definitions of administration and the different manner in which the two states accounted for their funds. To obtain consistent information on the amount of block grant funds used for state administrative activities, the Federal government would have to define administrative costs and require states to report information consistent with that definition." GAO also noted that the block grant is used to fund salaries of some State education employees and a variety of State activities related to State programs and functions. Rather than unduly reduce the amount of money States could retain or strictly limit the uses of State set-aside funds, the Committee bill attempts to define and limit administrative costs, clarify State uses while leaving them flexible, and reserve at least one-quarter of the State set-aside for effective schools programs as discussed in the next paragraph.

Third, related to this interest in focusing Chapter 2 on program inprovement and providing guidance on State uses of funds, the Committee has decided on Chapter 2 as the most appropriate source of Federal encouragement for the "effective schools" concept. The Committee has for the past few years been exploring ways to promote Federal support for more effective schools, first by holding several hearings on the issue and later by shepherding through the House in the 99th Congress an effective schools bill, H.R. 4463.

A body of research has validated that some schools, including those in poor areas and with disadvantaged students, have been highly successful in improving student achievement. This "effective schools" research has also found that certain characteristics are shared by these schools and can be replicated in other schools. These characteristics include: strong leadership at the school level; high expectations that no child will fall below minimum levels of achievement; an orderly school atmosphere conducive to learning and teaching; students' acquisition of basic and higher order skills taking precedence over all other school activity; and frequent and consistent evaluation of student progress.

In addressing the nationwide school reform agenda, some 35 States have mandated school improvement programs. Although very precise numbers are not available, there is evidence that a substantial number of these State school improvement mandates utilize the effective schools research framework and that 15 to 25

States have specific programs on effective schools. Testimony before the Subcommittee on Elementary, Secondary and Vocational Education indicates that according to a 1985 National Institute of Education report, 7,500 schools in 1,750 school districts had effective schools. The actual total may be much higher because many schools have informally adopted effective schools policies and because many more programs have been started since 1985.

The Department of Education has also recognized the validity of the effective schools concept by including a discussion of it in the 1986 report, What Works. To date, an impressive number of statewide effective schools programs, and local school district effective schools programs are experiencing reasonable to outstanding progress. The effective schools techniques hold great promise for improving education in many other areas where they have not been tried. This is true for secondary school improvement as well as for elementary schools.

With States and school districts that have not yet tried these programs, effective schools efforts could expand appreciably over the next few years. Frequently, the concepts have remained untried because school officials are unfamiliar with the programs or the evidence, because the leadership needed to initiate programs is lacking, or because school districts do not have the technical expertise or start up funding. Congress can provide the leadership to encourage this type of educational reform on a national level. A Federal program, implemented in a coordinated way through the States, can provide the funding, the technical assistance, and the national attention needed to make effective schools programs available to all schools that could benefit from them. A modest amount of Federal seed money could go a long way in promoting a national effective schools effort. The Committee views the new Chapter 2 partnership for educational innovation as the most appropriate vehicle for this effort.

With these views in mind, on March 25, 1987, Congressman Goodling and Chairman Hawkins introduced H.R. 1795, the Partnership for Educational Innovation Act. This legislation would reauthorize Chapter 2 through 1993. At Subcommittee markup of H.R. 5, the omnibus reauthorization bill was amended by adding H.R. 1795 as Chapter 2.

B. Explanation of Chapter 2 of H.R. 5

Section 1501. The Committee affirms the success of Chapter 2 in meeting its original goals of providing State and local education agencies Federal funds with a maximum degree of flexibility and minimum amount of paper work. The Committee feels that, in most cases, State and local agencies can best determine what are the priorities within a given State or school district. It is the intent of Congress that these funds be used by such agencies to try new and promising approaches to improving educational opportunities. After such programs or projects are implemented and tested for their effectiveness, State or local agencies should provide for their continuing support, allowing Chapter 2 funds to be utilized for further innovation and improvement activities.

This statement, along with several other provisions of the bill, places a greater emphasis than current law on using Chapter 2 funds for program improvement. This will help the Federal Government become a better partner in the educational reforms underway at present.

Section 1511. Chapter 2 is authorized at $580 million dollars for fiscal year 1988, and such sums through 1993. Currently, such sums are authorized for FY 87, but the actual appropriation for this year is $529 million.

Section 1512. Allotments of Chapter 2 funds to individual States is unchanged from current law. However, the reservation of funds for the outlying areas has been reduced, at the request of the Department of Education, from a guaranteed one percent to not more than one percent. According to the Department, the Compacts of Free Association being negotiated as part of the arrangements toward independence of the Trust Territory of the Pacific will mean that fewer territorial entities will be participating in Chapter 2 and that less funding may be needed.

Section 1513. H.R. 5 continues current law by allowing a State to reserve up to 20 percent of its grant for State programs, with a minimum of 80 percent of the funds passing through to the local level. Funds are distributed to the local level in a fashion similar to current law, based on adjusted relative enrollments of both public and private nonprofit school children.

H.R. 5 does clarify the provisions in current law regarding the adjustment of local allocations ((a)(3)(A)). First, the State shall make such adjustments only for those local agencies which have the greatest numbers or percentages of high cost children. The Committee does not intend that all school districts with any such numbers of students receive increased allocations. Second, the Committee has clarified that only two criteria—numbers or percentages of (1) children from low-income families or (2) children living in sparsely populated areas—are to be used to make determinations of adjusted allocations. Third, the Secretary shall approve a State distribution formula only after having determined that its adjusted allocations properly meet the requirements of this Section.

Fourth, this Section specifies that within a local education agency, both public and private schools must receive adjusted allocations proportional to their enrollment of such high cost students. The bill specifically requires that additional funds generated by greater numbers or percentages of high-cost students as defined in the bill may be used by local educational agencies only for expenditures for children in public and private schools in direct proportion to the number of such children enrolled in such schools within the local educational agency. In other words, the public and private schools with the children who generated the adjusted, "high cost" allocations should receive their proportionate share of those dollars, and schools without such children should not receive such adjusted allocations.

While the Committee is aware that the Chapter 2 block grant is not poverty-based in its approach to providing educational services to children, it is clear that services to children who are at risk are apt to cost more per pupil. Having singled out children from low-income families and those living in sparsely populated areas as "high-cost" children generating higher allocations on the formula, the Committee does intend that the practice of "averaging out" the costs between high-cost children and non-high-cost children will cease.

For example, the Committee finds that when a school (either public or private) having 100 students, receives Chapter 2 funded services equally distributed based on total enrollments, or "averaged out" to cost approximately $11 per child, that school receives a total of $1,100 in services. But when a school (private or public), having 100 students, two of whom are high-cost children, and 98 of whom are non-high-cost children, receives $32 ($16 each) for two high-cost students actually enrolled, and $588 ($6 each) for the 98 regular children enrolled, that school would receive a total of $620—$480 less than when costs are "averaged out".

This new provision in law is not intended to deprive any school, public or private, from receiving adequate Chapter 2 allocations to serve the children enrolled, but is intended to assure that the statute is adhered to by requiring that higher per pupil allocations actually follow the high-cost children who generate the funds in the first place. This should enable the Chapter 2 program funds to reach more children in more schools serving the greater numbers of at-risk children while, at the same time, continuing to serve all eligible children. These provisions for adjusted allocations should also help lessen the inequities that a recent Office of Technology Assessment report found exist between poor schools and more advantaged schools in terms of access to instructional technology (a frequent use of Chapter 2 funds).

Section 1521. State application procedures have largely been carried over from current law, including the establishment of the advisory committee. Applications are for a period not to exceed three years.

Section 1522. State uses of funds under Chapter 2 have changed under H.R. 5 when compared to current law. State funds can be used for administration of the Chapter 2 program, assistance to local education agencies to achieve the purposes of this Chapter, and effective schools programs. No more than 25 percent of such funds may be used for administration of the Chapter 2 grant and not less than 25 percent may be used for effective schools programs.

Permitting State education agencies to retain up to 20 percent of each State's Chapter 2 allocation recognizes that States have a role not only in administering the program, but also in providing educational leadership and building the capacity of local education agencies to achieve the purposes of this Chapter. With the funds not used for administrative purposes, States may provide technical assistance to local education agencies (including training and personnel development, curriculum development and improvement, research and demonstrations, evaluation and dissemination); direct grants to local education agencies; and statewide activities which assist local education agencies in meeting the purposes outlined in Section 1532.

Section 1531. The Committee encourages local education agencies receiving relatively small grants under this Chapter to form consortia with other local education agencies in order to make the best use of funds. The local application otherwise remains similar to current law. Local education agencies are provided complete discretion in determining how funds are to be used within the allowable uses of funds outlined in Section 1532.

Section 1532. The Committee heard in testimony on Chapter 2 that a major strength of the program was its broad flexibility to local education agencies. The Committee was also aware of some criticism of the program based on the fact that it did not delineate clearly enough the purposes of Chapter 2. The Committee intended in this Section to continue to provide local and State education agencies a great deal of flexibility in their use of funds while providing a more rational set of allowable uses of funds than the 30 cited in current law. Thus, the bill substitutes five broad program areas for the long list of activities, based on Chapter 2's antecedent programs, in current law.

The five categories set out in this section have considerable overlap with the three subchapters in current law, but are more descriptive of what the program does now and ought to be doing in the future. The five general areas are: programs for at-risk and high-cost children; effective schools programs; instructional and educational materials improvement; personnel enhancement; and special projects. The categories in H.R. 5 were based on recommendations of the State Directors of Chapter 2 and input from many other interested parties.

H.R. 5 lists several examples of particular uses of funds under the "special projects" activity. These include gifted and talented education, programs for youth suicide, technology, education, community schools, and career education. Child abuse is another growing and serious problem which can adversely affect a child's performance in school. The Committee encourages local school districts to consider using their Chapter 2 funds for the development of educational curricula which would help children avoid potentially abusive situations, and make teachers better aware of children who may have been physically or mentally abused.

The Committee also suggests that school districts consider using Chapter 2 funds to adopt programs that have been deemed successful by the National Diffusion Network funded under section 1562, or to submit their effective Chapter 2-funded project to the Network for possible dissemination.

Sections 1541 and 1542. As noted earlier, H.R. 5 requires each State to use not less than 25 percent of its share of Chapter 2 funds to promote, plan, implement, support, evaluate and revise effective schools programs; to provide assistance to LEAs; and to conduct statewide effective schools activities. In addition, LEAs may use their allocated Chapter 2 funds to carry out innovative programs and projects, among which may be included effective schools programs and activities as described and defined in these two sections.

Effective schools programs are defined as school-based programs that may begin at the preschool level and continue through secondary school levels. The objectives of effective schools programs are to: (1) promote a school-level planning, instructional improvement, and staff development, (2) increase the academic achievement levels of all children and particularly educationally deprived children, and (3) achieve as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional program solving;

(B) emphasis on the acquisition of basic and higher order skills;

(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

(E) continuous assessment of students and program to evaluate the effects of instruction.

The bill allows funds to be used to plan, implement, support, evaluate and revise effective schools programs; and to provide professional development, offer technical assistance, improve parent and community involvement, support model and demonstration programs, and develop and disseminate materials, as long as all of these activities are related to an effective schools program or are part of such a program that meets the definition in the bill. The activities listed are the means to accomplish the ends described in the definition.

This means that the expenditure must be made as part of a coordinated program that addresses, at a minimum, the five effective schools factors included in the definition. Second, when considered together with other resources, the expenditure must be a component in a unified effective schools program, recognizable as such within an individual school building, except that in cases where a new program within a school building is being started up, a gradual phase-in of all five factors is allowable as long as all five factors are built into the goals of the program from the start and as long as the plan calls for a total unified effective schools programs by its completion. This concept of changing the "climate" of an individual school so that it is conducive to teaching and learning lies at the heart of the effective schools research. Third, the effective schools program should be a primary focus of the expenditure, rather than an incidental outcome of another State purpose, such as general State educational reform.

It should be noted that effective schools programs need not be expensive to implement. Often, it is a matter of putting to better use the resources that already exist within the school building. A modest amount of new money can support the assessments, training, and other activities needed to make key changes within the school building.

Section 1551. The Committee intends to continue the fiscal provisions of the current Chapter 2 program in H.R. 5.

Section 1552. One of the strengths of the Chapte 2 program has been the equitable participation of children enrolled in private schools. The provisions for this participation are continued in H.R. 5 without change.

Section 1553. One of the shortcomings of the current Chapter 2 program has been the lack of descriptive and evaluative information on how funds are being used. The GAO, in another report on block grant data collection, found Chapter 2 to have less data on fiscal matters, program impact, and use of funds than nearly any other Federal block grant program. This section strengthens already existing provisions, without creating excessive requirements, to provide for a comprehensive evaluation of Chapter 2. At a minimum, the Committee expects to find in the report from the Secretary: how funds are being spent, and what are the educational effects of such programs and projects. The Secretary is encouraged to develop model reporting standards, with the assistance of persons involved in the operation of the program at the State and local level, which could then be adopted by local and State education agencies to assist in the aggregation of such data.

Sections 1561 through 1567. The Committee intends to continue those programs currently funded through the Secretary's Discretionary Fund in Chapter 2. Part B, National Programs and Activities, will receive the same 6 percent set aside of the total Chapter 2 funds as the discretionary fund does in current law. The order of funding is also maintained from current law. The only exception to this is the elimination of the authorization for programs in drug abuse education. This specific program is now redundant with provisions of the drug abuse prevention act passed in the 99th Congress.

Section 1562, authorizing activities of the National Diffusion Network (NDN), was amended by the Committee in order to clarify which activities are authorized. The Committee has found that the National Diffusion Network is an extremely important and successful dissemination program. One of its major strengths is the requirement that all programs approved for dissemination be validated as effective. Since 1974 the National Diffusion Network has had unparalleled success in making the nation's educators aware of the availability of a wide variety of exemplary alternatives that improve school and classroom practice, the effect of which has been to make the NDN one of the most effective Federally-supported education initiatives. It is appropriate that the National Diffusion Network's principal focus for the decade ahead be assuring and sustaining high quality assistance to schools implementing exemplary and effective practices that constitute significant changes for schools and classrooms.

The legislation to which this report is appended specifically uses the terms "implementation", "implementing," and "ongoing implementation assistance" to describe processes that will assure that National Diffusion Network efforts have an impact on the improvement of the nation's schools.

Further this legislation directs the Secretary to "ensure that a substantial percentage of the innovations disseminated represent significant changes in practices for schools and teachers." Such a programmatic priority will insure that the National Diffusion Network deepens its maturation beyond awareness of available innovative projects and first-level training of teachers toward a system that significantly and positively impacts the substantive improvement of the nation's schools.

The Secretary shall evaluate (or review the evaluation of) the effectiveness of proposed exemplary school improvement projects according to objective, evaluation criteria relating to student, classroom, and/or school-wide achievement. These criteria have been appropriately developed, modified, and utilized by the Secretary's

Joint Dissemination Review (or Program Effectiveness) Panel throughout the past decade. Selection of projects based upon their content, or "program significance", shall remain the decision of local schools, not the Federal government.

The Secretary shall not review, screen, select, or assess projects based on their content (e.g., attempt to ascertain what is an appropriate or an inappropriate reading instructional model or the proper biology text), but rather, shall allow local schools and their governing bodies to make all such determinations about disseminated projects after the projects' successes have been validated (i.e., through an objective examination of evaluative assessment of achievement) by the Secretary's Joint Dissemination Review (or Program Effectiveness) Panel.

The Secretary shall make yearly or multiple-year funding awards to exemplary projects (Developer Demonstrators) based upon the projects' ongoing effectiveness and the continued demand for adoption/adaptation/implementation of the program by local schools throughout the nation. No arbitrary number of veras of National Diffusion Network funding for Developer Demonstrators shall be prescribed.

The Secretary shall assure that National Diffusion Network facilitators be State-based (State Facilitators), *not* regionally based. The Secretary may provide incentives to State Facilitators so as to assure additional, priority adoptions/adaptations/implementations of Developer Demonstrator programs in public, private, parochial, and/or other non-public schools.

While the Secretary shall utilize 95% of monies allocated for the National Diffusion Network, pursuant to the above language, for the purposes of funding State Facilitator and Developer Demonstrator projects and the technical assistance services that support them, additional National Diffusion Network support—up to five percent of allocated NDN monies—may go for the funding of experimental "dissemination processes" efforts on a pilot basis.

Funds authorized for the National Diffusion Network are not to be used for any purpose other than those clearly outlined in the legislation. The Secretary shall spend 95% of all monies so allocated to the National Diffusion Network (NDN) solely for the purposes of funding traditionally defined NDN programs, specifically—(1) exemplary school improvement projects (Developer Demonstrators), (2) state-level brokers acting as liaisons (State Facilitators) between local school with needs and national, exemplary projects, and (3) the necessary technical assistance services that support the Developer Demonstrators and the State Facilitators. The Secretary shall not utilize monies, as directed under this Section for the funding of National Diffusion Network programs, for the so-called Secretary's School Recognition Program or any other "excellence recognition effort" not specifically part of the traditionally defined NDN program, i.e., Developer Demonstrators, State Facilitators, and technical assistance services to these projects.

While it is acknowledged that the Secretary's School Recognition Program has been of benefit, it is incumbent upon the Secretary to either utilize Discretionary Fund monies unallocated by Congress for any other specific purpose, such as for the National Diffusion Network, to support such Department-created efforts, or to seek specific Congressional authorization and appropriations for such efforts. The Education Department has, in recent years, made of funds directed for the funding of National Diffusion Network projects for its School Recognition Program and "other excellence recognition efforts." The Committee has adopted this amendment so that this practice shall cease, pursuant with the above directives.

Section 1567 also reauthorizes the Secretary's Discretionary Fund. The Secretary is authorized to carry out programs and projects which further the purposes of this Chapter at a national level. This could include a program recognizing exemplary schools. The Secretary is urged to use funds available under this section to address educational needs which are in need of urgent attention and in which a national focus is appropriate.

Since the effective schools concept has engendered enormous academic discussion, and since the so-called "first generation" research continues to be assessed for certain weaknesses, a "second generation" research effort is now underway. This legislation pays attention to the necessity for such additional research, particularly on how such programs affect studnets.

Recognizing the need for creditable program evaluation, to ascertain the level of success and progress in effective schools programs, Section 1566 calls for a national study of effective schools programs, to "consider relevant measures of the impact of the effective schools programs, including student achievement, attitudes, and graduation rates".

TITLE I, SUBTITLE B—MISCELLANEOUS PROVISIONS

An amendment to the bill requires the Secretary to conduct a study of school reform efforts. This study will examine the impact of recent State and local reforms in elementary and secondary education:

Student achievement as it corresponds to other nations;

The number of high school dropouts and graduates;

The amount of State funding for education in States with reform programs;

Enrollment in academic, vocational, and general courses at the secondary level; and

Achievement of students with special needs.

The amendment authorizes $1 million for this study and requires a report by July 1, 1989.

The Committee has also included in this subtitle a provision urging the establishment of an Office of Comprehensive School Health Education within the Office of the Secretary. In the Health Education Act of 1978 (P.L. 95-561) Congress directed the then Commissioner of Education to coordinate school health education programs with the Public Health Service and the Surgeon General. In response, an Office of Comprehensive School Health Education was established. The office was abolished in 1981. The Committee is concerned that since that time, coordination of school health education programs carried on by a variety of Federal agencies has not been systematic. Therefore, the Committee feels it is essential to encourage the re-establishment of the Office of Comprehensive School Health Education by statute.

TITLE II—CRITICAL SKILLS IMPROVEMENT

A. Background and Need

Title II of H.R. 5 reauthorizes Title II of the Education for Economic Security Act (P.L. 98-377), commonly known as the "mathematics and science education program." Congress created this program in 1984 as a response to widespread concerns over the quality of mathematics and science education in this Nation, concerns best summarized in this excerpt from the report of the National Science Board's Commission on Pre-College Education in Mathematics, Science and Technology:

> The Nation that dramatically and boldly led the world into the age of technology is failing to provide its own children with the intellectual tools needed for the 21st century.

The National Science Board's words are nearly as true today. The Title II program, now in its third year of being funded at a level much lower than originally envisioned, has made inroads: tens of thousands of teachers have upgraded their skills under this program. But the status of mathematics and science education is still critical: shortages of properly certified teachers still exist, teachers are still out of touch with new developments in the fields, students are still achieving below their international peers, student enrollment in advanced courses is still declining, and too many programs still lack needed math and science equipment.

For example, testimony from the Subcommittee's hearing on the Title II program indicated that as regards teacher shortages and teacher training, "Very serious problems remain, and many are becoming worse," in the words of Mr. LeRoy Lee, President of the National Science Teachers Association (NSTA).

A 1985-1986 NSTA survey found that some 7,000 high schools offered no physics last year, 4,000 offered no chemistry, and 2,000 did not even offer biology. About 17,000 high schools offered no earth or space science. These problems can be traced directly to the lack of qualified teachers. Almost one third of all high school students are being taught science or math by teachers who are not qualified; these are otherwise well qualified science or math teachers who are teaching in their second or third field.

Another survey conducted by Ms. Iris Weiss for NSTA found that 75% of the grade 7-9 science teachers in the United States failed to meet NSTA's standards of certification in their subject matter preparation. Also, some 50,000 elementary school teachers had never had a college course in science.

Teachers are also in need of up-to-date information on new scientific and mathematical developments and on pedagogical techniques. A survey of State Title II directors showed that over 200,000 math teachers and 319,000 science teachers need further inservice training. The aforementioned Weiss survey revealed that half the high school science teachers and three-fourths of elementary teachers have had less than six hours of inservice training in science within the last year.

Another dimension of the need for this program is the decline in student achievement in these critical subjects and in the numbers of students taking advanced courses, especially as these statistics compare with our international competitors. Data recently released from the Second International Mathematics Study (SIMS) and other international comparisons have once again questioned our Nation's ability to compete. The outcomes from these studies indicate that our average and below-average students have considerably less contact with topics in geometry, measurement and data analysis in their school mathematics programs than their international peers.

The National Research Council has recently published statistics which disclose that:

> The mathematics achievement of the top 5% of the 12th grade students—almost all of whom are enrolled in similar college-bound curricula in all countries—is lower in the United States than in other industrialized nations. The average 12th grade mathematics student in Japan outperforms 95% of comparable U.S. 12th graders.
>
> U.S. 8th graders are at about the international average in rote computation, but are well below international norms in solving problems that require higher order thinking skills. Indeed, as the "back-to-basics" movement has flourished in the last 15 years, U.S. students' ability to think (rather than just to memorize) has declined accordingly.
>
> In 5th grade, the highest average mathematics achievement in typical U.S. schools is below the average scores for similar schools in China and Japan. Only one of the top 100 fifth grade students in these studies was an American.

In science, there are similar problems. Only one-third of the students in grades 10 through 12 take any science course at all. The National Assessment of Educational Progress found consistent declines in the scientific knowledge of 9, 13, and 17 year olds between 1969 and 1982.

The Department of Education's analysis of the Title II needs assessments also reveals a shortage of science and math instructional equipment. One-third of the States involved in the analysis reported inadequate math materials at the high school level and 57% reported inadequate math materials at the elementary level. For science materials, inadequacies ranged from 51% at the high school level to 69% in elementary schools.

All of these problems are combining to produce a generation of scientifically and technically illiterate citizens and threatening our economic competitiveness and national security. It is, therefore, most urgent that Title II be reauthorized at an adequate level of funding.

B. Provisions of the Bill

H.R. 5 continues the Title II program as a State grant program but makes some noteworthy changes to respond to criticisms of the program's current focus and administrative structure. The legislative format of H.R. 5 recreates the program as Title II of the School Improvement Act and repeals Title II of the Education for Economic Security Act.

All the evidence from State reports and Department of Education summaries indicates that the Title II funds have been used well and have produced good results. A State survey conducted by the Title II coordinators shows that 82,000 math teachers and 77,000 science teachers have received services; the program, through teacher training and other means, has affected the instruction of 3.3 million students in math and 3.2 million students in science. These are impressive results, especially considering the very low level of funding for this program.

Originally, the program was authorized at $350 million. However, actual appropriations have stayed far below this level and have actually declined during the program's three-year life, from $100 million in FY 1985, to $43 million in FY 1986, and up slightly to $80 million in FY 1987. In a 1986 reauthorization of the Act, the authorization was again set at $350 million, where it currently remains.

These disappointing appropriation levels, when distributed under the formula in the bill, resulted in some school districts receiving very small grants. The problem was further complicated by the fact that under current law, the structure of the funding allocation is complex to the point of diminishing return. The allocation formula, is currently constructed in the following way:

Nine percent is retained by the Secretary of Education for discretionary grants to national priority activities. The remaining 90 percent is allocated to the States through formula grants based on each State's share of the Nation's school-age population (5-17), with each State receiving a minimum grant. Of the funds received by the State, 70 percent is to be administered by the SEA, and 30 percent is to be administered by the State Agency for Higher Education (SAHE) through discretionary grants to institutions of higher education.

Of the 70 percent of the State's allocation administered by the SEA for elementary and secondary programs, 70 percent (of the 70 percent) is distributed to LEAs in the State. Of these funds, 50 percent is distributed on the basis of each LEA's share of the State's public and private elementary and secondary school enrollment, and 50 percent on the basis of each LEA's share of the State's total number of children counted for the purposes of allocating funds under Chapter 1 of the Education Consolidation and Improvement Act of 1981.

In addition, the funds can currently be used for math, science, foreign language and computer instructional purposes. This may have the effect of further diluting the focus on math and science. The current law also contains certain restrictions on an LEA's use of funds. These restrictions give teacher training first priority and put percentage caps on certain other uses.

Another problem with the current program as noted in testimony, is the requirement for State and local needs assessments; developing these assessments has been complicated and time-consuming and may be unnecessary when sufficient studies exist to document the problems and needs.

H.R. 5 addresses these problems by making several significant changes in the program.

First, H.R. 5 raises the authorization to $400 million for FY 1988 and such sums as necessary for the five succeeding fiscal years. This will reaffirm the Committee's belief that these programs are a high national priority.

Second, the bill streamlines the allocation formula and directs a greater proportion of funds to the local level, where the direct services are provided. Under H.R. 5, as reported, nearly 75% of program funds will be given to the LEAs. Six percent of the funds are reserved for grants for the territories; for Indian programs in BIA schools, contract schools, and other schools; and for national activities; the remainder will be distributed to States on the basis of a formula that is based 50% on enrollment and 50% on the Chapter 1 poverty formula.

Twenty percent of State grant funds under the new Title will be reserved for use at the State level, as compared with approximately 50% under current law. Those funds are to be divided equally between the State Education Agency (SEA) and the State Agency for Higher Education (SAHE) for the conduct of statewide activities. The remaining funds are to be distributed to LEAs on the basis of a 50% enrollment/50% Chapter 1 formula.

The Committee recognizes the role played by the SEAs, SAHEs, and postsecondary institutions in the development and evaluation of new teaching techniques and for pre-service training. While the Committee recognizes the importance of this component, it is our intention that the focus of Title II be on programs conducted at the elementary and secondary level, with a special emphasis on in-service training for teachers who are teaching out of their major field. The Committee believes this provides the most efficient and rational approach because it will help to revitalize the skills of talented teachers that are already in the schools.

The Committee also directs the SEAs and the SAHEs (or their equivalent) to coordinate their activities and to apply their expertise to the development of programs which will have an immediate impact on the improvement of science and mathematics instruction on the elementary and secondary level. Toward this end, the legislation requires the SEA to develop the State application in consultation with the SAHE and to describe how the SEA and SAHE program components will be coordinated.

To further target the money on the delivery of services, the legislation restricts the amount for funds for State administration to 5% of the total State grant. The SEA, which must develop the application and administer the LEA formula grant program, is to receive 4% for administration and the SAHE, one percent.

Third, the bill addresses the problem of LEAs receiving small allotments by requiring that in any case where the distribution of funds will result in an LEA receiving less than $3,000, the LEA must apply as part of a consortium with other districts, institutions of higher education, or intermediate educational units. Otherwise, the SEA shall arrange such a consortium to serve the teachers and students in that LEA. If the LEA rejects that option, its allotment will be reallocated to other LEAs. There is a waiver of this provision for LEAs in rural and sparsely populated areas, where arranging such consortia could present logistical difficulties.

Fourth, the problem of diluted funds for math and science is further addressed by provisions deleting foreign languages and computer learning from the authorized activities. While the Committee continues to believe that these areas are of utmost importance, there are new programs in H.R. 3, the trade legislation, that focus specifically on foreign language improvement and technology education, and the Committee felt it was preferable not to duplicate those efforts in this program, especially when funds for math and science education have been so limited.

Fifth, the bill eliminates the State and local needs assessments, which have proved to be a burdensome part of current law, and instead requires the State and local applications to project teacher supply and demand and assess curriculum and other needs.

Sixth, H.R. 5 deletes the restrictions on local uses of funds and the priority system for teacher training. Many of these restrictions were aimed at ensuring excessive amounts were not spent on computer learning programs, equipment or foreign languages and are therefore not necessary under the current structure. Instead, the bill lists uses of State and local funds which are all tied to math and science, which emphasize teacher training, but which address more comprehensively than current law the full range of math and science instructional needs.

Thus, the statewide activities include teacher training activities; evaluation and improving State licensing and certification of math and science teachers; curriculum evaluation, development and modernization; and grants to teachers for innovative projects to improve instruction in their classrooms.

The legislation encourages local districts to focus funds on teacher training and retraining programs; recruiting women, minority, economically disadvantaged and other promising students to enter math and science careers; encourage partnerships involving public, private and non-profit agencies and other activities that have a high potential for improving student preparation in science and mathematics.

At the State and local level, the Committee bill retains the current emphasis on using the resources of the community, including museums, libraries, educational television, professional associations, and other appropriate public and private nonprofit agencies. The bill continues the requirements in current law for serving private school children and teachers.

Seventh, the bill addresses the Congressional concern over the lack of good, national data on this program. This problem has hampered the Congress' ability to make funding decisions in particular. Consequently, the bill requires the Secretary to develop model reporting standards so that data will be nationally comparable and requires the Secretary to present to Congress an annual summary of evaluations.

Finally, H.R. 5 reauthorizes the Title III partnership program of the Education for Economic Security Act at a level of $10 million for FY 1988 and such sums for the five succeeding fiscal years. This is lower than the current authorization of $50 million for this program that encourages partnerships between the business, higher education and elementary and secondary education communities; however, the program has not yet received any appropriations, so the lower authorization is more realistic.

TITLE III—MAGNET SCHOOLS

A. Background

The Magnet Schools Assistance program (Title VII of the Education for Economic Security Act, P.L. 98-377) supports specific activities in magnet schools operated in desegregating school districts. Magnet schools have distinctive curricular features that are intended to attract students of different races. The program has two statutory objectives:

(1) To assist local educational agencies in the elimination, reduction, or prevention of minority group isolation in schools with substantial portions of minority students; and

(2) To support, through aid to local educational agencies, programs that strengthen academic and vocational education skills of students attending magnet schools.

A magnet school is defined as a school or education center providing a special curriculum intended to be attractive to substantial numbers of students of different races.

To be eligible for assistance, a local school district must meet one of three conditions:

(1) It lost $1 million or more as a result of the repeal of the Emergency School Aid Act on October 1, 1982 (a predecessor program to encourage desegregation which was put in the Chapter 2 block grant in 1981);

(2) It is implementing a desegregation plan under court order or order of a State agency or official; or

(3) It has voluntarily implemented, or would if funded, a desegregation plan approved under title VI of the Civil Rights Act of 1964 (P.L. 88-352).

The Secretary of Education distributes magnet school assistance competitively to eligible local districts as project grants. The Secretary gives "special consideration" to the recentness of the approved desegregation plan, the extent to which minority group children are involved in the plan, the need for assistance, and the prospects for attaining program objectives.

Funds may be used for expenses related to the following facets of a magnet school:

(1) Planning and promotional activities related to expansion and enhancement of academic programs;

(2) Acquisition of books, materials, and instructional equipment, including computers; and

(3) Compensation of certified and licensed teachers.

For items (2) and (3) above, expenses must be related to improving math, science, history, English, foreign language, art, music or vocational skills.

Certain limitations are placed on the grants. Funds may not be used for consultants, transportation, or any activity not enhancing academic improvement. Additional grants to a district are dependent upon the district making satisfactory progress toward meeting the objectives of the program. Also, no more than ten percent of any grant can be spent on planning. States are prohibited from reducing State aid to a district because of its receipt of assistance under this program. A district's allocation under chapter 2 (Education Consolidation and Improvement Act of 1981, P.L. 97-35) cannot be reduced as a consequence of the receipt of Magnet Schools Assistance.

In addition, an eligible school district must certify in its application for assistance that it will not discriminate on the basis of race, religion, color or national origin in:

(1) The hiring and treatment of employees;

(2) The assignment of students to schools or courses, except under an approved desegregation plan; and

(3) Extracurricular activities.

The magnet schools program has been funded at levels of $75 million for fiscal year 1985, $72 million for FY 1986, and $75 million for FY 1987. The current authorization is $75 million. Approximately 44 school districts have received funds each year.

B. Provisions of H.R. 5

H.R. 5 makes several minor changes in the program and one more significant change. The most important change is to raise the authorization ceiling to $115 million for FY 1988 and such sums for the five following years, to enable more projects to be funded.

The Committee intends that grants made under this title may be used by eligible local educational agencies for the operation of their magnet programs, as well as for the expansion and enhancement of these programs. As originally enacted, the Education for Economic Security Act of 1984 included a statement of purpose which included assistance for the establishment and operation of magnet schools. Recognizing the enormous expense that is commensurate with establishing and maintaining a magnet school program, the Committee intends that grant funds may be used for program operation.

It is the intent of the Committee that the Secretary shall not award funds under this title strictly on the basis of whether an applicant received an award in a prior funding cycle. This section should clarify that while multi-year awards under the Act are not prohibited, the Secretary may not automatically make awards to the same applicants for repeated funding cycles. The section ensures that the Secretary carefully review all grant applications at the end of each funding cycle.

The Committee intends that only 15% of grant funds may remain available for expenditure for the following fiscal year, except in situations where grants had not been awarded in a timely manner. This section encourages local educational agencies to spend grant funds within the year, so that monies are made available for services to students within a short period of time. However, the section clarifies that local educational agencies receiving late allocations are not subject to this 15% limitation.

It is the intent of the Committee that the Secretary may not reduce the amount of a grant in the second year by the amount carried over by the local educational agency from the first year. This section prohibits situations that have arisen in the past where the Secretary has arbitrarily reduced second-year grants by the amount of the first-year grant carryover.

TITLE IV—THE GIFTED AND TALENTED CHILDREN AND YOUTH ACT

A. Summary

Title IV, the Jacob K. Javits Gifted and Talented Children and Youth Education Act, seeks to ensure that the best and brightest of our Nation's students are adequately, effectively, and more specifically served by our educational system. This amendment to H.R. 5, the School Improvement Act, authorizes $25 million for fiscal year 1988 and such sums as necessary for the five succeeding fiscal years. Funds under this part may be used for grants to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations to support programs which identify and meet the special educational needs of gifted and talented students.

With this very modest funding, the Committee envisions a Federal "capacity building" effort to strengthen our national ability to identify and educate our gifted and talented children. This amendment provides the tools for this capacity building by stimulating research, training personnel to serve gifted students, and providing a national focal point for information and technical assistance.

Funds under this bill will establish model programs in gifted and talented education, provide preservice and inservice training to teaching professionals, offer technical assistance and information dissemination, and support a National Center for Research and Development in the Education of Gifted and Talented Children.

The Secretary of Education, who is charged with administering the program and selecting the grantees through a competitive process, must give priority to those programs which will identify and serve gifted and talented children who may be overlooked by traditional assessment methods, including the economically disadvantaged, the limited English-proficient, and individuals with handicaps, among others, and those programs which will develop the capabilities of schools in an entire State or region, thus serving a larger population of gifted and talented students. The amendment also requires the Secretary to designate a unit within the Department of Education to administer this program and service as a national clearinghouse for information and provide national leadership to this program.

B. Need for the Amendment

Our nation is now grappling with ways to become, and remain, "competitive." America is searching for the means to compete internationally, expand our economy, and strengthen our scientific and technological edge. Yet it is ironic that in our current quest for excellence, we are neglecting a vital and precious resource that holds the key to our nation's future, and our ability to retain our pre-eminence in all areas. But that is precisely what we are doing with our gifted and talented youth.

America's estimated 5 million gifted and talented students—those who give evidence of high performance capability in intellectual, artistic, creative, leadership, or specific academic areas—have the potential to make outstanding contributions in every aspect of our Nation's economic, social, cultural, and intellectual life. However, these children often face special barriers to quality education, barriers that are often overlooked.

Many gifted and talented children remain unidentified, and thus lack the specific instruction needed to develop and utilize their full potential. In fact, according to the *Marland Report*, one out of every five gifted children drops out of school. They are very often bored by school programs that offer no challenge, or may even withdraw and be labeled as "trouble makers." As many as one million of this Nation's brightest and most promising students are high school drop outs.

Those gifted students who stay in school may still face special problems. Many teachers simply assign gifted students more work, or insist on the completion of tasks and assignments at a faster rate. Other educators assume these students will make it without special assistance and concentrate their teaching efforts on other students. Both approaches widely miss the mark and gifted students drift unattended through the education system and never realize their full potential. In fact, the National Commission on Excellence in Education noted in A Nation at Risk, "Over half the population of gifted students do not match their tested ability with comparable achievement in school." The Council for Exceptional Children reported to the Subcommittee that approximately 50 percent of gifted students are working at least four grades below their potential.

Gifted and talented programs now in existence serve only one million children, approximately 20 percent of those eligible for this instruction. Yet more disturbing is the quality of these programs. A study by the Richardson Foundation of Texas found that less than half of these programs were substantial, with the average program providing two to three hours enrichment per week and no modifications in the child's regular school program.

A survey by the Council of State Directors of Programs for the Gifted found that 36 States require no certification or special coursework for teachers of gifted and talented children. Another recent study determined that only 20 percent of current teachers of gifted and talented programming have the skills necessary to develop a curriculum for these students. Twnty-eight States have no mandated gifted programs. Of those that do, very little of the State money is used for research, training, or evaluation.

Prior to the enactment in 1981 of Chapter 2 of the Education Consolidation and Improvement Act, the Federal government supported gifted and talented education through a categorical program authorized by Title IX of the Elementary and Secondary Education Act. Re-establishing gifted and talented education as a national program through H.R. 5 is consistent with the original intent and purpose of this program.

During the few years this program was funded as a categorical program, it provided several benefits. The most important result of a separate national program for gifted and talented children was the response in kind from the States and localities. With guidance and leadership from the Federal government in this area, there was tremendous growth in gifted and talented education. There are now 56 full-time gifted and talented consultants employed by State education agencies, and in many cases, these employees are a direct result of Federal encouragement through the Title IX ESEA program. Similarly, many of the 22 States that now have mandated gifted programs began them concurrently with their participation in the Federal program.

However, the promise demonstrated by a national program for gifted education was not fulfilled because the program was discontinued with enactment of Chapter 2. The Chapter 2 "block grant" program provides funds for gifted and talented education, and 29 other programs. Discretion is granted to local educational agencies, with respect to the use of these funds. Under this consolidation, gifted and talented programming is suffering from neglect. A recent evaluation of Chapter 2 by SRI International found that only 20 percent of school districts receiving Chapter 2 used any funds for gifted and talented education. Another study concluded that those districts using Chapter 2 funds for gifted programs spent an average of only $1,000 on this special education.

C. A Federal Role

Strengthening the Federal role in gifted and talented education would accomplish several goals. First, it represents a renewed commitment to addressing the needs of these students, a commitment that has languished in recent years as States and localities have lacked leadership, guidance, and resources in this area. This role was advocated by the National Commission on Excellence in Education which recommended: "The Federal government, in cooperation with States and localities, should help meet the needs of key groups of students such as gifted and talented."

Secondly, a Federal program would make existing efforts more effective through coordination, research, and evaluation. A modest Federal funding effort would have a muliplier effect, as State and local programs would benefit from technical assistance, research findings, and model programs.

Finally, a national effort would be a wise investment in the future of this nation. It could help build a reservoir of intellectual and creative talent that would assure the growth and fulfillment of individuals, and of our entire nation. Simply stated, now more than ever, our society needs the contributions of gifted and talented students. This amendment recognizes the importance of identifying and developing these abilities during a child's formative years, so their full potential for contributing to the national interest will not be lost.

D. Purpose of the Amendment

This amendment authorizes a limited but essential Federal role in identifying and meeting the special educational needs of gifted and talented children. This purpose is in concurence with the aim of H.R. 5, to improve the quality of education for all citizens by more effectively and more specifically meeting their special needs. In this case, the role of the Federal government will be that of capacity building: stimulating research, training personnel, funding and disseminating model programs, and providing technical assistance. These progrms are also intended to supplement and improve the effectiveness of existing State and local programs and of funds expended for gifted children under the two other Federal programs, the Chapter 2 education block grant and the Education for Economic Security Act math and science program.

For this purpose, the amendment authorizes $25 million for fiscal year 1988, and such sums as may be necessary for the five succeeding fiscal years.

TITLE V—DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986

A. Summary

H.R. 5 extends through fiscal year 1993 the Drug-Free Schools and Communities Act. H.R. 5 is authorized to be appropriated at $200,000,000 for fiscal year 1987, $250,000,000 for 1988, and "such sums as necessary" for 1989, 1990, 1991, 1992, and 1993.

Section 4122—H.R. 5 amends the "State Program" section to include a youth suicide prevention program to be added to the other listed programs where the states pass funds through to local governments and other public and private nonprofit entities for drug abuse education and prevention activities.

Section 4123(b)—the "State Application" section is amended to include a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the federal government, state and local governments, and nongovernmental agencies and organizations. A description of this coordination must be included in applications submitted by States.

Section 4132—In the section on "Federal Activities" a study of the relationship between drug and alcohol abuse and youth suicide is also required in connection with the provisions of current law which already requires that the Secretary of Education in conjunction with the Secretary of Health and Human Services conduct a study of existing programs of drug abuse education and prevention.

B. Committee Intent

The Committee believes that suicide among teenagers is one of the most serious social problems that teenagers experience. Suicide is a leading cause of death among persons between the ages of fifteen and twenty-four, second only to traffic fatalities. The number of youths taking their lives has increased greatly in the last few decades. There have recently been instances of highly publicized teenage suicides, publicity which has tended to set off a "wave" of further suicides among impressionable, troubled teenagers. Since a relationship between drug abuse and youth suicide has been well established, it is appropriate to incorporate suicide prevention programs within drug prevention programs. The Committee further believes that troubled youth who take their lives often showed warning signs of earlier drug use.

The Drug-Free School and Communities Act of 1986 is necessary in order to provide for a continuous progression of programs which are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation. The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

TITLE VI, PART A—WOMEN'S EDUCATIONAL EQUITY ACT

A. Background

The Women's Educational Equity Act (WEEA), Title IX-C of the Elementary and Secondary Education Act, was first authorized by the Education Amendments of 1974, P.L. 93-380, and was first funded in FY 1976. The statutory purpose of the WEEA program is to promote educational equity for women and girls in the United States and to provide financial assistance to help educational agencies and institutions meet the nondiscrimination requirements of Title IX of the Education Amendments of 1972, P.L. 92-318.

The WEEA program provides discretionary grants and contracts to public agencies, private nonprofit organizations, and individuals for women's educational equity projects that are of national, statewide, or other general significance. Among other things, the Act authorizes curricular and textbook development related to women's educational equity, model personnel training programs, guidance and counseling activities, and educational equity research. The WEEA program supports work, not only in elementary, secondary, and higher education, but also in preschool, vocational, and adult education.

The Women's Educational Equity Act authorizes two types of discretionary grants and contracts. The first is a discretionary grant program to develop, demonstrate, and disseminate information on women's educational equity programs, materials, and activities of national, State, or general significance. The Department of Education must attempt to avoid supporting previously funded ideas. The second discretionary grant program assists projects of local significance, including support for programs to achieve compliance with the nondiscrimination provisions under Title IX. This latter program has never been implemented because the authorizing legislation stipulates that the Department can provide financial assistance to projects of local significance only when annual appropriations for the WEEA program exceed $6 million, which has not happened since the enactment of the 1984 amendments. If annual appropriations exceed $6 million, the WEEA program can also pay part of the costs of establishing and operating, for up to two years, projects that are of national, statewide, or other general significance that provide equal opportunities for both sexes.

The need for WEEA remains great. It is the only Federal funding source to support equity projects at all levels of education and to help educational agencies implement the Federal anti-discrimination mandate to Title IX. Confusion in the aftermath of the *Grove City College* v. *Bell* Supreme Court ruling on Title IX makes the WEEA program an even more important component of Federal equity legislation.

The WEEA program is cost-effective. WEEA only funds projects of national or regional significance that can be used in schools, colleges, and community-based programs throughout the country. The products are published and sold at cost; thus, even a school district far removed from a particular WEEA project benefits from the materials developed with WEEA support.

In the first nine months of 1986, the WEEA publishing center sold more than $123,000 in WEEA products—more than in any previous year.

B. Provisions of H.R. 5

H.R. 5 continues the program in its current form, with just two changes. First, the authorization level is raised from its current level of $14 million for FY 1987 to a level of $20 million for FY 1988 and such sums as necessary for the five succeeding fiscal years.

The Committee supports this authorization as a minimum level of Federal commitment to improve the quality of education for women and girls at all levels of education. The original authorization for the program when it was enacted in 1974 was $30 million, so the Act has not yet fulfilled its original intent. Raising the cap would also ensure that the $6 million trigger in the law for local programs to implement equity activities in specific schools or colleges could be attained.

The second change from current law requires that the program be administered through the Office of Educational Research and Improvement (OERI) within the Department of Education. In 1983, the WEEA program, which used to be a separate office, was placed, as part of a departmental reorganization, several layers deep within the Office of Elementary and Secondary Education. Because the WEEA program deals with all levels of education, from preschool to higher education, and because it supports demonstration programs of national and regional significance, it more appropriately belongs in OERI.

The Committee notes that a high demand for WEEA products exists despite the fact that Department of Education restrictions have curtailed the publication of new materials. Only two new products have been published in the last two years, although dozens have been developed. The Committee bill maintains the requirement in law that WEEA programs and materials be disseminated nationwide and urges the Department to abide by this requirement. It is a waste of Federal funds to develop products that are withheld from their intended audience: school personnel, students, and parents.

TITLE VI, PART B—ELLENDER FELLOWSHIPS

A. Background

The Ellender Fellowship program was authorized as a memorial to the late Senator Allen J. Ellender of Louisiana. The legislation authorizes grants only to the Close-Up Foundation, a Washington, D.C.-based organization, the purpose of which is to increase understanding of Federal governmental processes among secondary-level students and teachers. The Foundation's primary activities are: conducting week-long seminars on American government in Washington, D.C., for high school students and teachers; providing technical assistance to State and local programs of education about government; and producing instructional television programs.

The Close-Up Foundation receives funds from a variety of public and private sources. Federal appropriations for Ellender Fellowships are used specifically to provide assistance to economically disadvantaged high school students, and their teachers, in meeting the costs of attending the Washington, D.C. seminars. According to the Department of Education, approximately one-quarter of the participants in these seminars receive Ellender Fellowships, and for those recipients, the Ellender Fellowships pay approximately one-third of transportation and other participation costs. The remainder of the seminar costs for Ellender Fellowship recipients are paid from public and private matching funds, generated in the localities wherein the students and teachers live. The legislation requires that Fellowships be provided to participants from rural, small town, and urban areas.

Funding for the program first declined and then increased during the years since FY 1980. Currently, the program receives an appropriation of $1.7 million.

The number of fellowships actually awarded was approximately 1,500 for each of fiscal years 1973–1976. The participation rose gradually, to a level of approximately 2,000 per year, in the period of FY 1977–83. However, beginning in FY 1983, participation has more than doubled, rising to an estimated 5,800 for FY 1986. The reasons for this large increase are a higher appropriation level, a switch from a current to a forward funding schedule (which has apparently aided in planning), and greater success by the Foundation in raising local matching funds (requiring fewer Federal funds per participant). The average Federal cost per participant has fallen from approximately $400 in FY 1978 to an estimated $281 in FY 1986. While total costs have substantially risen over this period, a higher proportion of them are paid from non-Federal sources. The Ellender program has therefore been successful in catalyzing the donation of non-Federal funds.

A review of the Close-Up program's activities was conducted by the Social Science Education Consortium in 1981. The authors of this brief review, based primarily on interviews of participants, concluded that:

> . . . Close-Up has developed a unique and exemplary approach for providing enriched, intensive instruction about the Federal Government. As a result of their one-week experience, students appear to acquire additional knowledge, to hold more positive attitudes about politics, and to feel more competent to participate in political activities.

H.R. 5 reauthorizes the Ellender Fellowships with some small revisions.

B. Changes From Current Law

One amendment would continue the authorizing level that is already in current law for fiscal year 1988 for the Ellender Fellowship program, a level of $2.5 million, but would authorize such sums as may be necessary for the five following years. This will provide an opportunity for the funding to be increased in the appropriations process.

A second amendment would ensure that in granting the Ellender Fellowships to economically disadvantaged students, consideration shall be given to students who are handicapped, from recent immigrant families, and minority students.

A final provision would expand the scope of the Ellender program by permitting 5% of the funds to be used for government education programs at the State and local levels and for senior citizens. This amendment will allow for pilot projects that broaden the outreach of the Ellender program.

TITLE VI, PART C—EMERGENCY IMMIGRANT EDUCATION ACT

A. Summary of Legislation

H.R. 5 extends the Emergency Immigrant Education Act through Fiscal year 1993.

The legislation includes an authorization for appropriations in the amount of $40 million for 1990, and is authorized at "such sums" for 1991, 1992, and 1993.

In addition, H.R. 5 was amended to include two reports:

(1) A report wherein each state educational agency receiving funds under this title will submit an annual report to the Secretary concerning the expenditure of funds, specifying services, number of students served, length of service, and any other such information sought by the Secretary.

(2) The Secretary is required to submit an annual report to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources regarding programs under this title including number and types of individuals served, length of service, type of services, and other such information as the appropriate Committees may require.

Finally, an amendment was accepted whereby the Comptroller General of the United States will conduct a national assessment of programs under this title will submit a report of the periodic assessment to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources by March 15, 1989, and every third year thereafter for as long as the Act is authorized.

B. Background and Need for the Legislation

The committee believes that the Federal government should provide financial assistance to local school districts that provide education and related services for immigrant children.

Data from the Immigration and Naturalization Service show that during fiscal years 1983 and 1984, approximately 143,000 and 136,000 immigrant children respectively were admitted to the United States. In addition, the U.S. Census Bureau estimates that on average, 46,000 undocumented, or illegal, immigrant children annually enter the United States. California, Illinois, Texas, and New York are States with large immigrant student populations.

Subsequent to the reauthorization forum on the Emergency Immigrant Education Act, several meetings were held by staff members in an attempt to acquire data and other evaluative information regarding the Emergency Immigrant Education Act. The Subcommittee found that in terms of attempting to obtain information regarding the services and types of individuals served by this Act, the information was not very accurate and was virtually non-existent.

In addition, the Committee believes that there is a need for more readily available and accurate information in this area as well as a need for an improvement in the reporting requirements and evaluation data in order that the Committee will be in a better position to assess the program's effectiveness. Under current law, the Department is not required to keep records of expenditures in this program.

Section 606(b)(3)(A) of the Emergency Immigrant Education Act of 1984 reduces State grants provided under this Act by an amount equal to the funds made available under any other Federal law for expenditures within the State for the same purposes as the Emergency Immigrant Education Act. It is the intent of the Committee that funds made available for the education of school age children under the Immigration Reform and Control Act of 1986, P.L. 99-603, shall be included in any such category of comparable programs under section 6306(b)(3)(A) of the Emergency Immigrant Education Act.

TITLE VI, PART D—TERRITORIAL ASSISTANCE

A. Background

The "Territories"—outlying areas of the United States other than the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico—participate in many Federal education assistance programs, either by being treated as "States," or by having a specified percentage of program appropriations set-aside for them. These areas include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the former "Trust Territory of the Pacific Islands."

Separate legislative provisions authorize the consolidation of most Federal education programs in the outlying areas (P.L. 95-134), or the waiver for these areas of specific requirements generally associated with Federal elementary and secondary education assistance programs (section 1003 of the Elementary and Secondary Education Act). However, there are two programs that authorize education aid solely for one or more of the outlying areas—the programs of General Aid for the Virgin Islands and Territorial Teacher Training. As the titles imply, these programs authorize general financial assistance for elementary and secondary education in the Virgin Islands, and assistance to both pre-service and in-service elementary and secondary teacher training in all of the outlying areas.

B. General Aid to Virgin Islands

The program of General Aid for the Virgin Islands has only one participating grantee. However, the funds have been used for a variety of purposes. Among these purposes have been school construction and repair, operation of curriculum development centers, removal of asbestos from buildings, remedial education, acquisition of library and instructional materials, initiation of a program of agricultural education, educational research and dissemination, and purchase of school security systems. Funding has increased from $3 million in FY 1980 to $5 million in FY 1987, although the program was frozen at $1.9 million for several of the years in between.

This program compensates the Virgin Islands for problems created by Federal legislation and a U.S. District Court decision. These factors resulted in tremendous increases in the Virgin Islands non-resident student population, which the court said the territorial government must educate. Non-citizen students comprise 13% of the Islands' student enrollment, and the Islands Government is already committing 33% of its operating budget to support public education.

This influx of students has resulted in both educational needs and a need for school facilities. Although the funds for the general assistance program have resulted in construction, renovation and repair of 220 classrooms, the Islands are still suffering from severe overcrowing in the schools. The major construction and renovation that will be required over the next five years is estimated to cost $38 million. Additional funds are needed for remedial education and for other activities which will bring the Islands' schools up to the level of mainland curriculum.

The bill reauthorizes this program at a level of $5 million for FY 1988 (the same as its current authorization) and such sums for the five following years.

C. Territorial Teacher Training

Under the Territorial Teacher Training program, one grant has been made each fiscal year since FY 1980 to each of the five eligible areas (American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands). Grants are allocated among the areas in proportion to their school-age population, but with a minimum of 5 percent of the funds to each area. In each year since FY 1980, approximately 2,000 persons have received either pre-service or in-service teacher training under this program. Funding dropped between FY 1980 and FY 1983 from $2 million to $1 million; currently the level has been restored to $2 million.

This program has been successful in training several hundred teachers per year, but the need is great. For example, 27% of the teachers in American Samoa and 19% of the teachers in the Virgin Islands remain uncertified. In the Virgin Islands, 496 teachers are lacking baccalaureate degrees or do not meet the most minimum certification standards. The American Samoa population continues to increase, thereby exacerbating teacher shortages. Out of American Samoa's 768 public school teachers, only 319 were certified as of 1986.

H.R. 5 reauthorizes this program at a level of $2 million for FY 1988 (the same as its current authorization) and such sums as necessary for the five following years.

TITLE VI, PART E—EXCELLENCE IN EDUCATION

The Excellence in Education Act, enacted in 1984, supports improvement activities at individual elementary and secondary schools across the country. The Act was proposed largely as a Federal response to the growing concern over the status of the Nation's public education, particularly at the high school level.

The purpose of the Act is to provide Federal support for activities in schools that demonstrate techniques for improving educational quality that can be disseminated and replicated among other schools and that involve local parents, principals, teachers, and businesses in their implementation.

School districts in each State nominate individual schools, to their chief State school officers. Each of these officers, in turn, nominates 25 schools to the Secretary of Education for his consideration. The Secretary can select no more than 500 schools from those nominations forwarded to him for project grants. School districts are to nominate schools that appear capable of experimenting with standards of quality, that represent a fair and equitable distribution within State, and that will further the purpose of the Act.

The legislation requires the Secretary to give priority to schools proposing to undertake projects with the following purposes:

(1) Reform secondary school curriculum to improve achievement in academic and vocational subjects and in basic skills;

(2) Limit "excessive" electives and impose stricter graduation requirements;

(3) Improve attendance and discipline;

(4) Increase learning time;

(5) Provide teachers and teams of teachers with incentives, such as financial awards and reduced administrative burdens;

(6) Improve achievement through innovative measures, such as independent study; and

(7) Create models of linkages between schools and their communities and other schools, to address educational problems (e.g., use non-school personnel to alleviate teacher shortages).

The Secretary is to disseminate research and evaluation findings on "exemplary" projects and practices supported with these funds. In addition, the Secretary is to establish an independent monitoring panel to assess the success of the Act in improving instruction and student achievement.

The Excellence in Education Act was funded in fiscal years 1985 and 1986, at levels of $5 million and $2.4 million respectively, well below the current authorization of $16 million. The program received no appropriation in fiscal year 1987.

The first awards under the Excellence in Education Act, announced July 11, 1986, went to 60 schools in the Special School award category (approximately $2 million in two-year, 100% Federal grants) and to 61 schools in the School Excellence category (approximately $1 million in one-year matching grants). These awards were made with FY 1985 funds.

The Committee bill reauthorizes this program, but reduces the authorization level to be more in line with past appropriations. The new authorization level is $5 million for FY 1988 and such sums for the five succeeding fiscal years.

TITLE VII—BILINGUAL EDUCATION IMPROVEMENT ACT

A. Summary

H.R. 5 extends through fiscal year 1993 the Bilingual Education Act.

H.R. 5 also extends the Bilingual Education Act at $246 million for fiscal year 1988 and at "such sums as may be necessary" for fiscal years 1989 to 1993. This level of funding would make possible the enrollment of approximately 363,000 Limited English Proficient (LEP) students in Title VII programs which includes approximately 150,000 more than are currently served. Full funding at the new authorization level nearly doubles support for necessary parent and school personnel training programs.

Included in the authorization for appropriations for 1989 is new funding in the amount of $103 million dollars. Of this $103 million, Part A programs would receive at least as much funding as they currently receive in addition to adjustments for inflation.

In addition, Part C, Training and Technical Assistance would also receive its fiscal year 1987 funding level plus adjustments for inflation. However, Part C, Training and Technical Assistance, would no longer continue to receive 25% of funding of new appropriations but would receive not less than 20 percent of newly appropriated funding. Part C shall receive the greater amount of these two options.

Of any increases in future appropriations, H.R. 5 would also reserve not less than 70 percent and not more than 75 percent of remaining funds for special alternative instructional programs for LEP students.

Twenty-five percent of the remaining sums from increases in appropriations are to be reserved for programs of developmental and transitional bilingual education. For developmental bilingual education programs, $1,000,000 would be available for fiscal year 1988, and for each subsequent fiscal year an amount which exceeds by $150,000, the amount for the preceding fiscal year.

H.R. 5 also increases the minimum State education agency grant from $50,000 to $75,000 to enable States to carry out more improved, required and permissible activities under this Act.

B. Need for Legislation

In school year 1980–81, there were 565 bilingual education programs serving 350,000 students. This number decreased during the school year 1983–84 with a participation of about 180,000 limited English proficient children. During this same period, appropriations for the bilingual education program reached a high of $167 million in fiscal year 1980. The figure of $167 million in 1980 included $2.8 million for Bilingual Vocational Education. However, the current level of funding which has been decreased to $143 million for fiscal year 1987 does not include funding for Bilingual Vocational Education because this program is now administered under the auspices of the Vocational Education Act. H.R. 5 increases the authorization level to $246 million which will serve in excess of 150,000 additional students.

The administration's current estimation for 1988 is that there are 212,373 individuals served. The Committee believes that this is a small number served in comparison to the department's estimate that between 1.2 million and 1.7 million children are most likely to benefit from services under the Bilingual Education Act. It is noteworthy, however, that other studies disagree with these figures. In fact, based on Departmental studies, in 1978 T.H. Bell, former Secretary of the Department of Education estimated that there are 2.6 million children likely to benefit from services provided by the Bilingual Education Act.

In addition, recent studies show that while the overall school-aged population will rise 16 percent by the year 2000, language minority, school-aged children will increase by 40 percent, which clearly says that there are large and growing numbers of children of limited English proficiency, and that the need for the bilingual education program is greater today than ever before.

C. Explanation of the Bill

1. Section 7002—Policy Appropriations

In this legislation, developmental bilingual education programs (DBE) have been included in a Part A funding set-aside along with transitional bilingual education (TBE). Local educational agencies requested this change to add flexibility to the current part A funding reservation and to increase available support for bilingual education programs which optimize the benefits of dual language education.

The National Advisory and Coordinating Council on Bilingual Education (NACCBE).—H.R. 5 eliminates the NACCBE and instead requires that the Secretary consult with State directors of bilingual education. This includes consultation with evaluation assistance centers, other individuals, and organizations with expertise in testing and evaluation in developing Title VII program evaluation requirements.

2. Section 7003—Definitions; Regulations

Family English Literacy programs funded under Part A may under this legislation include instruction designed to enable individuals participating in legalization programs (as per the Immigration Reform and Control Act of 1986, P.L. 99-603) to study English and other courses approved by the Department of Justice.

Parental Notification.—H.R. 5 strengthens existing requirements regarding parental notification by specifying that any information provided to parents be in "a language and form the parents understand.

The purpose of this additional language is to insure that regardless of the parents' native language and literacy, the information supplied by the school district must be interpreted and conveyed in a manner that insures that parents understand the communication.

3. Section 7021—Bilingual Education Programs

Development of instructional materials.—Separate grants for the development of instructional materials are eliminated. This change will have little or no impact on school districts, particularly, in view of the fact that few instructional materials grants have been made in recent years, (the Department estimates that there will only be two in fiscal year 1988), and the development of instructional materials is a permissible activity under all other Part A grant programs.

Technology-based instruction.—This amendment allows programs authorized under Part A to provide technology-based instruction to students in these programs. It does not require grantees to use program funds for such instruction. The Office of Technology Assessment recently released a report which indicated that limited English proficient students are aided in their acquisition of English if they are able to use computers. In addition, findings show that technology-based instruction allows the limited English proficient student to experience immediate and positive feedback, extensive practice, individualized pacing and a greater degree of student control over the learning process.

Pre-service Activities.—The purpose of this provision is to permit grantees to engage exclusively in pre-service activities during the first 12 months of a grant. It eliminates the existing requirement that grantees engage exclusively in pre-service activities during the first six months of a grant and also eliminates the existing provisions for waiver of this requirement by the Secretary. This elimination also provides additional flexibility to education officials receiving grants for programs of transitional bilingual education, developmental bilingual education, or special alternative instruction.

Parental advisory councils.—This legislation adds a new provision which requires local educational agencies to provide appropriate support to Title VII parental advisory councils. The purpose of this provision is to ensure that Title VII parent advisory councils receive support, as necessary, from local educational agencies.

Training program grants.—Current law provides that the applicant will provide or secure training for personnel participating, or preparing to participate in bilingual educational programs. The purpose of this provision is to insure that training under program grants assist educational personnel in meeting state and local certification requirements.

4. Section 7032—Grants for State Programs

State Program Grants increase the minimum State education agency grant from $50,000 to $75,000 in order to enable States to carry out more improved, required and permissible activities under the Act.

5. Section 7035—Research

Longitudinal studies.—H.R. 5 specifies that longitudinal studies measuring the effects of education of students who have language proficiencies other than English, pertain to students enrolled in Title VII programs.

In addition, the amendment requires that the longitudinal study includes the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this act and provides information including, but not limited to, data on grade retention, academic performance, and dropout rates.

Further, there is an amendment in this legislation which requires the clearinghouse for data collection, evaluation, and research to coordinate its activities with the National Diffusion Network. The purpose of the clearinghouse is to collect, analyze, and disseminate information about Bilingual Education, while the purpose of the National Diffusion Network is to disseminate information about exemplary educational programs. The purpose of this amendment is intended to ensure that the two systems work together with the goal of more effective dissemination of exemplary Bilingual Education Programs.

6. Section 7036—Coordination of Research

This bill requires that the Secretary consult with the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor in terms of insuring that research activities undertaken complement and do not duplicate other activities taking place under this Act.

7. Section 7037—Education Statistics

This legislation requires that the annual report by the National Center for Educational Statistics on the education of limited English proficient persons should also include data collected by other Federal agencies in addition to the data collected by the Department of Education.

8. Fellowships

This legislation provides for at least 500 fellowships each year that this bill is authorized. The purpose of the fellowships is for advanced study of bilingual education or special alternative instructional program for limited English proficiency students in such area as teacher training, program administration, research and evaluation, and curriculum development. This provision also requires that recipients of these fellowships be involved in a program of study leading to a master's or doctorate degree.

9. Section 7051—Office of Bilingual Education and Minority Language Affairs

This legislation requires that the Director of OBEMLA report annually to Congress and the President regarding the number of individuals receiving services and the number of grants and contracts awarded from Title VII programs.

Further, this legislation requires that the Secretary submit to Congress and the President a biannual report on the condition of bilingual education in the Nation including information on major research findings in regard to Title VII research activities.

The committee requests that the Secretary submit a report on the effectiveness of "special alternative instructional programs" within one year after enactment of this bill. The report for the Committee on Education and Labor will also include the status of the effectiveness of the special alternative instructional programs being evaluated in the "Longitudinal Study of Immersion, Early-Exit and Late-Exit Transitional Bilingual Programs for Language Minority Children," as well as up-to-date effectiveness data on the special alternative instructional programs in addition to all other programs supported under this Act.

TITLE VIII—INDIAN EDUCATION ACT

A. Bureau of Indian Affairs

1. Background

The Committee has once again included a group of amendments which give direction to the Bureau of Indian Affairs Indian Education programs, and maintain the forward momentum and progress of the Indian education programs, progress which has been reflected by accreditation for Bureau financed programs, improved student achievement scores, and more community involvement.

Unfortunately, this generally positive trend in Indian Education programs and the renewed commitment of field education personnel to excellence does not seem to be reflected within the policy making levels of the Bureau. Actions which have included arbitrary school closures (in contravention of the statutory requirements), proposals to cut contract administrative support and cutbacks in needed programs have become standard fare over the past two years. This negative trend has culminated this year in a totally unfounded proposal to transfer the remaining Bureau operated schools to "third parties", including States, public schools, foundations, and church groups. These transfers were to take place over the next two years, with or without the consent of the tribes, and regardless of the impact of such transfers on Indian students or their education. This ill-conceived proposal is simply another example of a Bureau which, at its highest levels, refuses to recognize and abide by the concepts of educational commitment, consultation with tribes, and the Federal Trust responsibility to provide educational services and opportunities. The proposal has met with bi-partisan opposition.

The Committee has held two days of hearings on this and other Bureau proposals, along with a number of briefings, trips, and activities involving consultation with Indian Tribes. The Committee has decided that strong action is needed at this time to halt this transfer proposal, to safeguard the progress already made, and to impress upon the Bureau that it is time it recognizes its responsibility and begins to carry it out in a responsible fashion.

2. Major Provisions

The Committee has recognized the current Bureau funded schools and prohibited negative changes to their programs, including "third party transfers" without Congressional permission or tribal request. This was done for several reasons: (1) the Bureau refuses to abide by the current statute relating to study, consultation and notice (witness its current proposal and several recent closures, including the schools at Toyei and Pinon.); (2) this amendment formalizes the practice set by during recent Congressional actions where actual Congressional approval prior to action has been required (e.g. Intermountain and Phoenix Indian Schools); and (3) since the current statute already requires 12 months notice before any negative action, the Committee does not view this requirement as an added hardship.

To further protect school programs, the Committee has incorporated most of the current education regulations, with an accompanying proscription on change. These regulations were developed with classic consultation with the Indian community and are the centerpiece of implementation of the reforms of 1978 and 1985. However, the Bureau is currently working on major revisions of policy and program regulations in-house, without any consultation with the field and without any notice to Congress. The working papers for this in-house rewrite contain deletions of numerous provisions giving local control and parental input, and thus run contrary to the Congressionally mandated policy and recent statutes. The Committee recognizes the need to maintain some administrative flexibility, and has carefully worded the amendment to take this into account. However, with the exceptions noted in the amendment, there is no substantive need to amend the regulations.

The Committee has also addressed the major problem with tribes taking self-determination contracts; the problem of administrative costs. The failure of the Bureau to establish a reasoned, stable method for setting the administrative/indirect cost payments which would go to a tribe to support the education activity has discouraged contracting and caused needless program disruption and expense. Additionally, it has made "contract gamesmanship" paramount, as the amount of contract support funds has become contingent upon salesmanship and negotiation strategies.

In the past, most of these amounts have been set by arbitrarily determined rates, as lump-sum payments or as mixtures of the two. The Bureau has not developed a formula (though in the 1978 amendments it was requested) and will not even define what the term "administrative costs" covers. Repeated attempts by Congress to get the issue handled have failed. To aggravate the situation, Bureau recently "threw up its hands" and proposed a single, 15% across the board rate. This may be simple, but it is also simplistic and will render operation of small, isolated schools impossible.

The Committee has recommended a formula which generates a sliding range of administrative cost rates, which would then be applied to the funds received administrative cost rates, which would then be applied to the funds received under the Indian Student Equalization Formula. This use of the formula will simplify accounting and administration, and will lend an element of stability to the program. It will also allow schools to predict, with a certain degree of accuracy, what they will receive.

The formula was developed by: (1) charting as a graph the current payments for indirect costs to contract schools, (2) adjusting these amounts for the shortfalls in negotiated payments which have been caused by the B.I.A., (3) defining the activities to be conducted and funded under the heading of administrative costs, (4) determining how many of the schools currently match this set of tasks, and adjusting the curve accordingly for those doing more or less; and (5) constructing a mathematical formula on the curved result. It is a mathematical method for alloting the costs associated with general, non-specific office and program support expenses to all of the different programs which a grantor/contractor may have. There are provisions for an isolation adjustment.

This computation, which would be based on the preceding fiscal years data, would then be applied to the base weighted student unit figure for each school, based upon the program offered. This would generate an additional weighted unit figure, which would then be added to the total for division into the appropriation and for the individual school multiplication for the final allocation.

The Committee has included an amendment to encourage coordination at the local level between Tribes, Bureau funded programs, and local public schools. In at least one case, such cooperation has been sought by a large tribe with a number of Bureau programs and several local public agencies. The Bureau refused to cooperate. The amendment would involve programs between B.I.A. and public schools, including cost-sharing, larger procurements and unified/coordinated policies and procedures. Other examples of possible areas of cooperation include combined curriculum planning and teacher training and joint procurement. Such programs offer a substantial opportunity for improved efficiency and programs, by cutting down on duplication.

It is important to note that all determinations as to the areas to be covered by these agreements are to be made locally. The Bureau would not be a party to the agreement. The Bureau would simply be in the position of putting the agreement into effect, within the limits of the funds generated by the Indiana Student Equalization Formula.

Perhaps the major policy initiative included in the Committee's amendments is the new Self-Determination Grant Program. The genesis for the proposal was a basic agreement with Assistant Secretary Swimmer that the current contract system is too complex and cumbersome. It just doesn't work. Some of the problems could be cleaned up administratively, but some are in the current statute, which also applies to programs other than education, (e.g. law enforcement). Changes to this statute to meet education concerns could cause problems for other programs. Finally, part of the problem is the very nature of contracts, which are too restrictive on local control.

Under the amendment, one grant per year shall be made to each school or program, which will include all funds attracted by the school from the Bureau for the year. The grants under this act shall go into a general fund and may be used to defray a wide range of expenses, except that no more may be spent on administrative costs than was generated under the administrative formula provision, and that in instances where one grantee operates more than 1 school site, no less than 95% of the funds generated by a site must be spent at the site. After an initial determination of eligibility, receipt of annual monies would (subject to appropriations) be automatic, additional negotiations or applications. Grants would continue as long as the education program remains accredited, by the entities stipulated in the amendment, and submits the required reports in a timely fashion (also stipulated in the amendment.) Additionally, the amendment is structured so that all determinations on performance will be made by outside parties.

The amendment sets out very specific timelines and guidelines for review of applications for each set of schools or expansions (patterned after current self-determination regulations). The Committee has spent particular effort on this issue of timelines, because one of the major problems of the current system is the Bureau's refusal to abide by its own regulations. The Bureau has gone so far as to wait several years, without approving or denying an application, and tribes have been afraid to react, because of fear of reprisals in other, Bureau controlled programs. The timelines in the bill reflect the timelines in the self-determination regulations, and the Committee feels that they are reasonable and workable.

The amendment also includes factors for consideration of new, non-B.I.A. funded schools and program expansions. Finally, current contract authority would be maintained, increasing the self-determination options open to Tribes. Currently contracted programs could elect to come under this authority or continue as contracted schools. If they elect to be covered, they are grandfathered in without another eligibility determination.

Other Committee amendments clarify formula and residential standards issues, define the terms "consultation" and require personnel studies and actions. As a group, they will make the statutory adjustments necessary to see that recent improvements continue.

B. Indian Education Act

The Committee is extending and lifting an authorization cap on the programs under the Indian Education Act (P.L. 92-318). In 1984, these programs were reauthorized with a program cap for FYs 1987-90. This was done pending a full-scale review of the program in 1985. A removal of the cap was anticipated after the review. No review was held, but the cap remained. This means that these programs have not even been able to grow to meet inflation.

The Committee has also addressed the problem of proof of eligibility to participate in the program. The Administration proposed, in 1985, to severely limit the proofs an Indian parent could submit to prove eligibility. The effect would have been to halve the eligible population, being particularly harmful to urban populations. Congress has stopped the Administration's proposal twice.

Several hearings were held, a number of meetings and briefings facilitated and consultation with the Indian community conducted, through Committee trips and attendance at Indian organizatons' meetings. The Committee attempted to work out an accomodation with the Administration. At one point, a compromise appeared within reach. The Department of Education had promised regulations on the issue by the beginning of last September. None have ever been published.

The Committee can wait no longer for a solution. The amendment deletes the Form 506 as a tool for establishing eligibility and returns it to its original function as an information collection document. A parent could present any evidence he/she have, including evidence of community recognition as an Indian, to the parent committee for consideration. The parent committee would then make a recommendation on sufficiency of the proof presented to the public school district. The district would make the final decision, provided that it could not accept as eligible any student whom the parent committee recommended as ineligible. These determinations would have to follow written guidelines which would be established by the parent committee and the district.

C. Native Hawaiian Amendments

In 1980, the Hawaiian delegation placed a program for Native Hawaiians in the higher Education Amendments. The provision was deleted, with the insertion of provision for a study to be conducted by the Department of Education to determine need and programs to be offered. The study has been done, showing a great need and recommending this type of proposal. The Committee, after reviewing this work, has included this amendment.

TITLE IX, PART A—ADULT EDUCATION

A. Background

The Adult Education Act is the primary Federal program to alleviate the problem of adult illiteracy. Since 1966, the Adult Education Act has provided funds to assist State educational agencies (SEAs) to establish and expand programs to benefit educationally disadvantaged adults. These programs are intended to provide adults with the basic skills necessary to function in society, enabling them to complete secondary school and profit from employment-related training. Adult education programs serve approximately 2.8 million people annually. The Act was last amended in 1984.

Although the authorization level in 1984 was set at $140 million and such sums as may be necessary for succeeding years, funding for this program has declined in recent years. The FY 1987 appropriation of $106 million is lower than the actual FY 1980 appropriation of $122 million. When these figures are adjusted for inflation, funding for this Act has actually decreased by approximately 40 percent.

Under the Adult Education Act, grants are made to States with federally approved State plans, on the basis of a formula which takes into account the number of adults without high school diplomas. Programs are carried out by local educational agencies and by other public or private nonprofit or for-profit agencies. State plans must be submitted to the Secretary of Education and contain specific administration, operation, and data reporting information about the adult education program at the State and local level. States may use Adult Education Act funds to support an advisory council in planning, implementing, or evaluating programs and activities.

Activities under the Adult Educaiton Act are limited to "adult education"—education programs below the college level for adults. Special emphasis is placed on "adult basic education"—programs for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability. No more than 20% of the funds may be used for high school equivalency, with the remainder devoted to basic skills and literacy programs.

The Adult Education Act authorizes the Secretary to support various discretionary applied research projects and related activities. Discretionary funds available to the Secretary are specifically authorized at a level of 5% of the appropriations, but only when the appropriation is $112 million or more. Funds have not been made available in recent years for these discretionary activities.

B. Need for the Legislation

Recently the Nation has become more aware of the distressing number of Americans—the functionally illiterate adults—who cannot read and write well enough to participate in the most basic economic and social activities. The Subcommittee was in the forefront of calling attention to this problem, conducting five joint hearings on the problem of illiteracy in America with the Senate Education, Arts, and Humanities Subcommittee in the 99th Congress; two oversight hearings in the 99th Congress, and one oversight hearing in Los Angeles this year.

There is no consensus on what constitutes illiteracy or how many people are illiterate. Estimates of the number ranges from 20 million up to 70 million. But there is a growing realization that illiteracy is a drain on our economy. The Nation spends approximately $7 billion annually to maintain 750,000 illiterate adults in prison. The annual cost of welfare programs and unemployment compensation due to illiteracy is estimated at approximately $6 billion. The business community spends an estimated $10 billion annually to address the lack of basic skills among the work force.

The complexity of the low literacy problem and the adult illiteracy program in this country pose a serious threat to our national productivity, security and welfare:

> People with less than six years of schooling are four times more likely than others to be on welfare;
>
> 50 percent of those in prison are functionally illiterate and 75 percent have not completed high school;
>
> 85 percent of juveniles who go into court are illiterate;
>
> 75 percent of the unemployed have inadequate reading, writing, and computation skills necessary for retraining for high-technology jobs.

It is a danger to our defense because many soldiers cannot even begin the training they need to handle sophisticated military equipment. It is a blot on our democracy because illiterate persons are unable to participate in the political process and make informed choices.

Illiteracy also exacts human costs, when a parent cannot read to a child, a worker cannot fill out a job application, or a senior citizen cannot read the Bible.

While a range of public and private agencies, organizations, and businesses are all interested in the problem and provide various services to address it, these sources together do not begin to reach the universe of those in need. The total number of educationally disadvantaged adults served by all programs—Federal, State, local, private—does not exceed 5,000,000. Forty to fifty percent of the these people drop out in six months to a year's time—too little to make any significant learning gains. In addition, those who never participate are frequently the most disadvantaged who are overlooked by traditional outreach methods.

The Adult Education Act is the most significant component of this array of literacy programs. It has provided Federal seed money to encourage the growth of publicly supported State and local programs. And it has been successful. According to the last national evaluation of the program, completed in 1980, the program appears to benefit a large number of adults at a remarkably low Federal cost.

Although the program is making inroads, it has never received a level of funding at all commensurate with the need. The 1980 evaluation found that increasing numbers of adults are being served, but there continues to be a large, unmet need for service to adults not being served by existing programs; the study is particularly concerned about the lack of services to adults who are "most in need."

A similar conclusion was reached from a 1984 Department of Education survey of a sample of States; The Department of Education found that "by any definition only a small proportion of the target population is served by existing programs."

H.R. 5, therefore, seeks to expand the program, sharpen the focus on the most educationally disadvantaged adults, improve coordination with other programs, stimulate increased State matching, and enhance public and community input into the program.

C. Explanation of the Bill

1. Expansion and Direct Services

H.R. 5 seeks to expand the Adult Education Act by raising the authorization level from $140 million to $200 million for FY 1988 and such as necessary for the five following years. With this increased authorization, Congress can put genuine funding behind the desire expressed by many Members to do something about the problem of illiteracy.

The bill also attempts to heighten the impact of these dollars by ensuring that the maximum amount will be used for direct services. Toward this end, State and local administrative costs are limited to 5 percent of their grants. However, at the local level, in cases where the administrative costs are insufficient to adequately plan, administer, evaluate and coordinate programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for non-instructional purposes.

States may continue to use funds under the Act for personnel training, research, and curriculum development, in addition to the direct provision of adult education programs, but they must show in their evaluations how these activities support the regular adult education program.

2. Matching

Another amendment in H.R. 5 will expand the total pool of resources for adult education by gradually increasing the State matching requirements under the Act. The current match is 10% non-Federal. Data from State financial reports indicate that in FY 1984, expenditures from State and local sources represented $197 million (67 percent) and expenditures from Federal funds were $95 million (33 percent) of the total Federal, State, and local expenditures for adult education programs. The Committee believes that now is an appropriate time to lower the 90% Federal share to 87% in FY 1989, 83% in FY 1990, and 80% for the three succeeding fiscal years.

3. Eligible Population

H.R. 5 mandates that States develop a systematic approach for meeting the needs of the population eligible for adult education programs. This will encourage long-range, coordinated planning.

An important set of amendments in full Committee mark-up requires States to give increased attention to the needs of the least literate adults. The amendments help to target existing funds, while leaving States maximum flexibility in deciding how to use their grants to better serve educationally disadvantaged adults. The amendments respond to the 1980 Department of Education assessment of the Act, which found that "the least literate and most alienated tend to be excluded." The Department of Education assessment concluded that what the Adult Education Act most needed was greater "emphasis on more clearly targeting the Federal program and on helping local projects serve the targeted population groups." These amendments are a first step toward achieving both of those objectives.

The amendments specifically define educationally disadvantaged adults as individuals who read at or below the fifth grade level, or who have been placed in the lowest or beginning level of a competencies-based adult education program. States are required by these amendments to give preference to grant applications from local programs which demonstrate the capability to recruit and serve these least educated adults. SEAs are also required to evaluate the progress made in improving and expanding education services for educationally disadvantaged adults.

Other changes to current law would sharpen the focus on adults with special needs by requiring States and local recipients to recognize the particular needs of persons with disabilities and those who have limited English proficiency, as well as those who are homeless. The bill also restores a special focus on migrant farmworkers and immigrants.

The bill also clarifies within the statement of purpose that the adults to be served are those who lack sufficient literacy skills. The definition of an adult is also clarified. The language states that an adult who receives services under this Act is not to be enrolled in school.

4. Advisory Council

H.R. 5 requires States to establish an advisory group, appointed by the Governor, or designate an existing body as such. This is permissive under current law but H.R. 5 makes it a requirement, for at least three reasons. One, a State-level council, appointed by the Governor, will have the public visibility and support needed to elevate the State's efforts to deal with illiteracy. Two, a State-level council will help to ensure the effective coordination of all intrastate literacy activities. Three, a State council mechanism will ensure effective participation by various groups and organizations in developing the State's plan of adult education service delivery. The bill would specify that the duties of the Advisory Council include advising the State agency about policies governing State activities and initiatives that the private sector might undertake, as well as participating in the mandated evaluations.

5. Coordination with Other Programs

Under H.R. 5, State and local recipients are required to coordinate programs funded under this Act with programs funded from other Federal sources and from State and local funds. The bill also requires recipients to make efforts to form linkages with the VISTA Literacy Corps established last year by P.L. 99-551. Another amendment encourages the Secretary to enter into interagency agreements with Health and Human Services to fund permissable immigrant education activities described in the bill.

6. Private Sector Involvement and Community-Based Organizations

States are permitted to use a portion of their funds to support a private sector adult education initiative designed to improve the productivity of current employees through literacy training programs provided by partnerships among business, labor, job training programs, and educational agencies and institutions.

The bill would also clarify that for-profit agencies may participate only as part of a consortium with non-profit public agencies.

The Committee strongly urges States to encourage the participation of community-based organizations to provide adult education services. Community-based organizations are uniquely qualified to conduct outreach and recruitment efforts for disadvantaged populations. Because of their ability to provide participants with a variety of motivational and educational services that meet individual needs, community-based organizations serve populations that otherwise would be left out of the system. As a result, individuals who would not have been attracted to educational instruction will gain the skills necessary to be competitive in the marketplace.

7. State Administration

The new bill includes several amendments to improve State administration of the Act. These amendments spell out the contents of the State plan/application; provide for public input and review by other relevant State agencies; specify certain assurances regarding proper administration, assignment of personnel, and non-supplanting; and require a regular schedule of evaluations.

8. National Activities

The level of funding in H.R. 5 for national programs is limited to 3 percent, and the funding trigger has been lowered from $112 million to $108 million. Approximately nine "national programs" have been identified in this legislation.

The legislation requires the Secretary to complete a study of the literacy needs of our country, participate in a joint study with the Department of Health and Human Services of the availability of Federal funding and services for literacy training, and complete a study of the special needs of adults with learning disabilities and their participation in adult education programs.

The bill would establish a national effort to help States evaluate their adult education efforts, including an analysis of State plans and State outcomes for such programs, and the establishment of an information network.

Finally, the bill would require the Secretary to establish a program of grants to States to develop projects to train adult volunteers to work as tutors.

TITLE IX, PART B—IMPACT AID

A. Explanation of the Bill (P.L. 81-874)

H.R. 5 extends through fiscal year 1993 P.L. 81-874, Financial Assistance for Local Education Agencies in Areas affected by Federal Activity (Impact Aid).

H.R. 5 also authorizes the program in the amount of $735 million for fiscal year 1988.

In reporting H.R. 5, the Committee accepted an amendment which corrects a current provision in Section 3(d)(2)(D) of current law where non-Indian parents who reside on nontaxable land are being forced to pay tuition to send their children to schools where they are employed or schools that exist within the community. Prior to the Department of Education regulations regarding cooperative schools, these students were counted by the local educational agencies and dollars were transferred to the Bureau funded schools. Currently, these students are not eligible to be counted for the Bureau of Indian Affairs (BIA) formula funds because they are not members of an Indian Tribe. It is the intent of the Committee that the local educational agency will count those students attending BIA schools in order to receive funds from P.L. 81-874 and transfer such funds promptly to the BIA schools for the purpose of the student's education.

B. Explanation of the Bill (P.L. 81-815)

H.R. 5 extends through fiscal year 1993 P.L. 81-815, Construction of School Facilities in areas affected by Federal activities (Impact Aid—School Construction).

H.R. 5 also authorizes P.L. 81-815 at current services level in the amount of $24 million for fiscal year 1988;

H.R. 5 also makes a change in the section on "Definitions" in regard to the "base year" by striking 1978-1979 and inserting 1988-1989. In section 15 of this law, the term "base year" means the third or fourth regular school year preceding the fiscal year in which an application for school construction was filed as designated in the application. The base year shall in no event be later than the regular school year 1988-1989. This change is required in section 15 (15) to identify the latest correct base year from which membership increases will be measured for the purposes of determining entitlements under Sections 5, 8, and 9.

C. Committee Intent

The overriding concept which supports reimbursement payments to local school districts by the impact aid law is that federal ownership or federal activity has placed a financial burden on a local school district's ability to generate sufficient revenue to educate its children.

There are some situations where non-Indian parents who reside on nontaxable land are being forced to pay tuition to send their children to school where they are employed. In many cases, these schools are the only ones within a reasonable area for the students to attend. It is estimated that approximately 400-500 children are affected.

P.L. 81-874 and P.L. 81-815 expire in fiscal year 1988. P.L. 81-874 currently provides for funding which is used by local educational agencies for their general maintenance and operating expenses. P.L. 81-874 also provides disaster assistance for damaged school facilities. This law currently provides for reimbursement to approximately 3,500 school districts, one out of every four in the nation. P.L. 81-815 makes possible school construction for federally-connected students.

TITLE IX, PACT C—GENERAL EDUCATION PROVISIONS ACT

A. Audit Reform

The Committee has adopted several amendments to Part E of the General Education Provisions Act aimed primarily at reforming the Department of Education's audit and appeal process. The Committee held hearings on this issue in the 97th and 98th Congress. In the 98th Congress, amendments, aimed at reforming the auditing process, were adopted by the House of Representatives in H.R. 11. In the 99th Congress, the Committee held a series of informal discussion sessions with interested parties. While the Committee recognizes the importance of audits in ensuring that Federal programs serve their intended purposes, the Department's audit and appeal process has sometimes adversely affected intended program beneficiaries. The Committee intends to create an effective, economical, and equitable process for the review of audit findings by the Department and for appeals of those findings by auditees. It is the Committee's view that the amendments strike the necessary balance between giving auditees the means to defend themselves against adverse audit findings and retaining the Department's ability to recover misspent funds and ensure overall program accountability.

The significant difference between these amendments and current law are as follows:

1. Section 451—Office of Administrative Law Judges

Administrative Law Judges.—The amendments replace the Education Appeals Board with administrative law judges (ALJs) and provide for proceeding in accordance with the Administrative Procedure Act (APA). The amendments require that regulations promulgated by the Secretary afford the parties the hearing rights established in the APA. ALJs are professional, full time government judges. Department of Education ALJs will be chosen in accordance with a general government-wide selection process for ALJs. The number of judges needed to adequately carry out the functions required by the Office will depend on the case load and will be determined according to government-wide standards.

Discovery.—The amendments provide for an orderly process of discovery for the parties to an audit. The amendments give the ALJs authority to order a party to produce relevant documents that are not privileged, to answer written interrogatories that inquire into relevant matters not subject to a legal privilege, and to have depositions taken. The amendments also give ALJs authority to issue subpoenas and, if necessary, to apply to the Federal District Courts for their enforcement. The Committee intends that the ALJs implement these discovery provisions for the purpose of securing a fair, expeditious, and economical resolution of disputes, taking care to prevent abuses of formal discovery by litigants.

Attorney's Fees.—The provisions of the Equal Access to Justice Act, relating to the costs of litigation and attorneys' fees, would apply to the proceedings.

Mediation.—The amendments provide for the voluntary mediation of disputes pending before the Office. The Committee encourages settlement and the use of mediation whenever possible to accomplish this end. The Committee intends that all the parties agree to the mediator and that the mediator be independent of the parties.

2. Section 452—Recovery of Funds

Prima Facie Case.—The Secretary is required to establish a prima facie case for the recovery of funds in the preliminary departmental determination (PDD). This provision is intended to ensure that the Department provide the auditee with fair notice of both the facts and the law upon which the decision to recover funds is based. This requirement imposes a clearer standard on the Department for the notice to the recipient in the preliminary departmental determination than currently exists. Once the Department establishes a prima facie case the burden of proof shifts from the Department to the recipient.

Subrecipients.—State recipients may not recover funds from any affected subrecipient unless the State has transmitted a copy of the PDD to that subrecipient within ten days of the State's receipt of the PDD.

Publication of Departmental Decisions.—The amendments provide for the publication of final Departmental decisions, and clarify the circumstances under which a decision of an ALJ becomes final agency action. With the publication of these decisions, recipients will have available a body of precedent to guide their compliance with Federal law. A body of common law from decisions should envolve, making results of these proceedings more predictable.

Substantial Evidence Test.—The amendments require that the factual determinations of the ALJ be reviewed by the Secretary under the substantial evidence test; that is, an ALJ's findings of fact, if supported by substantial evidence, shall be conclusive. The Committee recognizes that because the ALJ controls the proceedings, including the development of the factual record, the ALJ is in the best position to weigh the evidence and make appropriate findings of fact.

Compromise Settlements.—The Secretary's authority to compromise the claim without resort to government-wide procedures under the Federal Claims Collection Act is expanded to PDDs that do not exceed the amount the recipient agrees to return by more than $200,000. The Committee intends that this authority be used to encourage settlements.

3. Section 453—Measure of Recovery

The new provisions in section 453 are necessary to ensure fair measurement of the amount of recovery. The calculation of harm provisions clarify Congressional intent on an important audit issue, the ambiguity of which has led to inconsistent audit results. The mitigating cirtcumstances provisions immunize grantees in certain types of cases who would have previously been required, unjustly, to repay misspent funds.

Calculation of Harm.—As amended, section 453(a) of GEPA would require a recipient that is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, to return funds in the amount that is proportionate to the extent of the harm its violation cause to an identifiable Federal interest associated with the program under which the recipient received the award. Subsection (a) also identifies a number of discrete Federal interests typically associated with Federal education programs, including serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintance-of-effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

It is helpful to understand the overall context in which the determination of recovery is made. Briefly, officials who make recovery recommendations or decisions usually include auditors and program officials and, in appeals, the ALJ, the Secretary and possibily other judges. The process for determination of recovery involves a determination of the following: 1) whether a violation occurred; 2) to what degree an identifiable Federal interest was harmed; and 3) what the appropriate measure of recovery should be in light of the harm to an identifiable Federal interest and in light of any mitigating circumstances.

In general, a violation has occurred when Federal funds have been diverted from their intended purposes to support specific benefits or activities that are not authorized by the statutes, regulations, cost principles, binding interpretations, or other provisions governing the award. Similarly, the provision of specific benefits or activities which are of the type authorized, but to a beneficiary population which is not authorized, constitutes a diversion of Federal funds necessitating a recovery. Other violations of applicable legal requirements may be so detrimental to a particular Federal interest or objective established under the statutes and regulations that a financial recovery is warranted, even though the Federal funds were ultimately used to provide authorized services to authorized beneficiaries (where an authorized service is taken to mean a service for which the statute intends money to be used.)

Mitigating Circumstances.—The amendments include certain mitigating circumstances which, if present, would bar the recovery of funds from State and local educational agencies. These mitigating circumstances include actual and reasonable reliance upon erroneous written Departmental guidance, the Department's failure to respond to written requests for guidance within 90 days, and actual and reasonable reliance upon a judicial decree issued to the recipient.

The Committee has included several safeguards to insure that the second type of mitigating circumstance provision will work as intended: (1) a requirement that the request for guidance be accurate and include the facts necessary for a determination of its legality; (2) a requirement that the chief legal officer of the State educational agency certify that he or she believes that the proposed expenditure or practice is lawful; (3) a requirement that the requesting agency reasonably believes that its proposed practice or expenditure was lawful.

Dissemination of Guidance.—The amendments require the Department to disseminate answers to requests for guidance that meet the criteria for mitigating circumstances where the guidance reflects significant interpretations of law or policy.

4. Sections 454-457—Remedies for Existing Violations

Section 454. This section provides that whenever the Secretary has reason to believe that a recipient of a grant or cooperative agreement is failing to comply substantially with any applicable requirement of law, the Secretary has the option to withhold further payments under the program, seek a cease and desist order, enter into a compliance agreement, or take any other action authorized by law.

Section 455. This section, in conjunction with section 454, authorizes the Secretary to withhold funds from a recipient that is failing to comply substantially with an applicable requirement of law, and also establishes the procedures, including an opportunity for a hearing before the Office of Administrative Law Judges, the Secretary must follow to withhold funds. Section 454 is substantially similar to the current section 453 of the General Education Provisions Act.

Section 456. This section, in conjunction with section 454, authorizes the Secretary to issue a complaint against a recipient that is failing to comply substantially with an applicable requirement of law leading to a cease and desist order. Section 456 also establishes the procedure, including an opportunity for a hearing before the Office, the Secretary must follow to obtain a cease and desist order. Section 456 is substantially similar to the current section 454 of the Act.

Section 457. This section, in conjunction with section 454, for the first time under Part E, authorizes the Secretary to enter into a compliance agreement with any recipient that is failing to comply substantially with an applicable requirement of law. The purpose of such a compliance agreement is to bring the recipient into full compliance with the law as soon as is feasible. Before entering into a compliance agreement, the Secretary is required to hold a hearing at which students, parents, and other interested parties are invited to participate. The recipient has the burden of demonstrating that full compliance with the law is not genuinely feasible until a future date, and the Secretary is required to make written findings to that effect and to publish those findings, along with the substance of any compliance agreement, in the Federal Register. Each compliance agreement contains an expiration date not later than three years from the date of the findings, at which time the recipient must be in full compliance with the law, as well as with the terms and conditions with which the recipient must comply, until it is in full compliance. A compliance agreement does relieve a recipient of the obligation to repay funds misspent prior to the date of entering into the agreement.

5. Section 458—Judicial Review

This section provides for judicial review in the appropriate United States Court of Appeals of final agency action under section 452 (recoveries), section 455 (withholding), and section 456 (cease and desist orders), as well as disapprovals by the Secretary of certain State applications. Section 458 is similar to the current section 455 of the Act.

6. Section 459—Use of Recovered Funds

This section authorizes the Secretary, whenever the Department recovers funds from any recipient of a grant or cooperative agreement because of a misuse of funds, to return up to 75 percent of the recovered funds to the recipient. Under current law, the Secretary's discretionary authority to return recovered funds applies only to State and local educational agencies; these amendments expand it to any recipient. Section 459 is substantially similar to the current section 456 of the Act.

B. National Center for Education Statistics

Section 9311 of the bill strengthens the National Center for Education Statistics within the United States Department of Education in accordance with a September 1986 National Academy of Sciences report, Creating a Center for Education Statistics; A Time for Action, which advised that unless there were "wide-ranging actions to change both the image and reality of the Center, we are unanimous in our conviction that serious consideration should be given to the more drastic alternatives of abolishing the Center and finding other means to obtain and disseminate the education data."

The Center is the entity within the Department responsible for collecting and reporting statistics on American education. The Committee notes that it is necessary to monitor the education industry and its contribution to our economy by supporting a strong National Center for Education Statistics. In 1987, education was the second-largest industry in the Nation. It is supported overwhelmingly by public tax dollars thus making it crucial that adequate data be available to determine its efficiency and progress in providing educational services to the American people.

The public needs the assurance that the Center's reports are nonpartisan, unbiased and consistent with the quality evident in the demographic, health, and labor statistics reported by the Bureau of Labor Statistics, the Bureau of the Census and the National Center for Health Statistics. Therefore, H.R. 5's provisions are largely based on current law and successful practice at these agencies.

The Committee addressed a number of the suggestions embodied in the December 1986 response from the Advisory Council for Education Statistics to the National Academy of Sciences' (NAS) report. The Advisory Council is appointed by the Secretary of Education to advise the Center. The NAS report was originally commissioned by the Department of Education at the request of the Advisory Council. Consequently the Advisory Council's response to it was carefully considered.

The Advisory Council endorses the NAS recommendation for a quasi-independent status for the Center within the Department of Education. To achieve this objective, the Council urges that the Center be provided with a line item budget for personnel and operations. The Committee agrees with the Council and addressed their recommendation by specifically including "salaries and expenses" within the separate authorization of appropriations for this Center.

The Advisory Council response joins with the NAS in warning that the current Department of Education organization of the Office of Education Research and Information "appears to assign dissemination of the statistics to a group other than the one responsible for data collection." The Committee has heeded the Advisory Council's warnings that the current situation not only opens the Center to gaps and weaknesses between those who gather the data and its users but also gives the appearance of political influence over the data. The Committee has consequently included within the section a provision that gives the Commissioner of Education Statistics the publication authority for the Center's various reports.

Other important strengthening provisions include: a regular sequence of surveys and reports to Congress, a program to promote comparable and timely statistics from states, strengthening the privacy protections to individuals who respond to the Center's questionnaires, a requirement to report the Nation's school dropout and retention rate to Congress in the fall of each year, a mandate to use modern statistical techniques to reduce paperwork burden and a strengthened administraive structure.

The bill provides for the Center to be headed by a commissioner who will be appointed from among persons who are specially qualified due to their substantial experience, including knowledge of the Center's work. The bill, therefore, allows the Commissioner to be selected from a wide pool of possible candidates including the current senior staff of the Center, senior staff of other Federal statistical agencies, statisticians and administrators working for state and local governments as well as universities and the private sector. The Committee expects that the Commissioner will be selected for special expertise without regard to partisan considerations.

The Committee believes that the senior staff of the National Center should be in the career reserved Senior Executive Service. It is important that the Center be advised by persons selected by virtue of their professional qualifications in research and statistics.

Further, the Committee expects that the public individuals selected by the Secretary to serve on the Advisory Council on Education Statistics possess the professional qualifications necessary to advise the Commissioner of Education Statistics on the range of general policy issues that must be confronted by a statistical agency whose mission is to serve the Nation by producing useful, dependable and high quality education statistics.

The authorization of appropriations is limited to matters covered under Section 406 of the General Education Provisions Act. This section does not affect the authorizing provisions affecting the National Assessment of Educational Progress which is currently administered by the Center and is authorized in Section 405 of GEPA. The authorization of appropriations in this section does not include NAEP but nothing in the section precludes the Center from administering the appropriations provided for this national assessment of educational achievement in addition to the authorized appropriations provided under Section 406 of GEPA as amended by this section.

It is essential that the statistics identified to be collected and published by the National Center for Education Statistics stem from generic issues fundamental to understanding the nature of the education industry and its impact on the economy and society at the local, state and federal levels. Although the Committee expects that the Department of Education might seek advice on its responsibilities to evaluate and monitor federal education programs, the purpose of the National Center for Education Statistics is not to conduct evaluation of specific federal education programs. Fundamental to the trust the public has in the truthfulness of an agency's statistics is the belief that the data are not biased toward any particular ideology.

C. National Assessment of Educational Progress

Section 9350 of the bill amends the authorization for the National Assessment of Educational Progress, under the General Education Provisions Act, to require this program (the primary source of national information about student achievement) to collect information on the performance of students served by Chapter 1. The National Assessment of Educational Progress has provided the Congress with important indicators of what is happening with the achievement of certain groups of students targeted for Chapter 1, but to data no information is specifically available on those children who are actually involved in Chapter 1.

OVERSIGHT

No findings or recommendations concerning oversight of the programs amended in this bill have been received by this Committee from the Committee on Government Operatons. Findings from the Subcommittee's and the full Committee's oversight hearings contributed to consideration of this legislation.

COST ESTIMATE

The Congressional Budget Office has estimated the following costs to the Federal government in implementing this legislation. The Committee concurs in these estimates and adopts them in compliance with clause VII of Rule 13. No cost estimates have been received from any other Federal department or agency.

The CBO letter follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 1987.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 5, the School Improvement Act, as ordered reported by the House Education and Labor Committee on April 22, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 5.
2. Bill title: The School Improvement Act.
3. Bill status: As ordered reported from the House Education and Labor Committee April 22, 1987.
4. Bill purpose: The primary purpose of this bill is to amend and extend through 1993 the authorization for appropriations for the major federal elementary and secondary education grant programs. Most of these programs are currently authorized under the Elementary and Secondary Education Act of 1965, the Education Consolidation and Improvement Act of 1981, P.L. 81-815 and P.L. 81-874 relating to federal impact aid payments, the Education For Economic Security Act, the Indian Education Act, and the Adult Education Act. H.R. 5 also establishes several new grant programs. This bill is subject to subsequent appropriations action.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992	1993
TITLE I: BASIC PROGRAMS						
Estimated authorization level:						
Basic Grants to local education agencies	10,850	11,400	12,050	12,725	13,450	14,150
Basic grants to State agencies for migratory children	635	665	705	750	800	855
Basic grants to State agencies for handicapped children	385	405	430	460	490	485
Basic grants to State agencies for neglected and delinquent children	63	65	70	74	79	84
Grants to the territories	119	125	133	140	148	156
State administration	121	127	134	142	150	158
Partnership for education innovation (Chapter 2)	580	612	647	683	720	759
Capital expenses	30	32	33	35	37	39
Even start program	50	53	56	59	62	65
Secondary school programs	100	106	112	118	124	131
Department of Education studies	12	3	13	14	15	16
National Commission on Migrant Education	2					
GAO studies	(1)	(1)	(1)	(1)	(1)	(1)
School reform study	1					
Office of School Health Policy	(1)	(1)	(1)	(1)	(1)	(1)

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992	1993
Subtotal estimated authorization level	12,948	13,602	14,383	15,200	16,075	16,897
Subtotal estimated outlays	681	11,213	13,553	14,319	15,134	15,999
TITLE II: CRITICAL SKILLS IMPROVEMENT						
Estimated authorization level:						
Critical skills improvement	400	422	446	471	496	523
Partnership in education	−40	11	12	12	13	14
Subtotal estimated authorization level	360	433	458	483	509	537
Subtotal estimated outlays	29	265	415	453	478	504
TITLE III: MAGNET SCHOOLS						
Estimated authorization level	40	121	128	135	142	150
Estimated outlays	3	35	99	127	134	141
TITLE IV: GIFTED AND TALENTED						
Estimated authorization level	25	26	28	29	31	33
Estimated outlays	2	18	26	28	29	31
TITLE V: DRUG-FREE SCHOOLS AND COMMUNITIES						
Estimated authorization level		14	279	295	311	327
Estimated outlays		2	48	175	291	307
TITLE VI: SPECIAL PROGRAMS						
Estimated authorization level:						
Women's education equity	4	1	22	23	24	26
Ellender fellowship		(1)	3	3	3	3
Immigrant education			42	44	47	49
Territorial assistance	−1	−1	6	6	6	6
Excellence in education	−11	5	6	6	6	7
Subtotal estimated authorization level	−8	5	78	82	87	91
Subtotal estimated outlays	−1	−5	6	61	82	86
TITLE VII: BILINGUAL EDUCATION						
Estimated authorization level	64	260	275	290	306	322
Estimated outlays	2	57	218	272	287	303
TITLE VIII: INDIAN EDUCATION						
Estimated authorization level:						
Financial assistance to local education agencies	22	26	78	82	87	92
Construction of Native American schools	50					
Operation of Native American schools			7	7	7	8
Improving education opportunities			35	35	35	35
Special education teacher training	(1)	(1)	1	1	1	2
Fellowships	(1)	(1)	2	2	2	2
National Advisory Council			(1)	(1)	(1)	(1)
Native Hawaiian education programs	10	10	11	11	11	12
Subtotal estimated authorization level	82	36	134	138	143	151
Subtotal estimated outlays	26	59	86	128	141	146
TITLE IX: AMENDMENTS TO OTHER LAWS						
Estimated authorization level:						
Adult education	89	211	223	236	248	262
Adult Indian education	8	8	9	9	10	10
Impact aid	−65	800	845	893	941	992
Office of Administratives Law Judges	(1)	(1)	(1)	(1)	(1)	(1)
Center for Education Statistics	26	33	37	39	42	44
Subtotal estimated authorization level	58	1,052	1,115	1,178	1,241	1,308
Subtotal estimated outlays	−38	747	1,053	1,151	1,214	1,280
Bill total:						
Estimated authorization level	13,570	15,551	16,878	17,832	18,846	19,817

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992	1993
Estimated outlays	704	12,392	15,504	16,714	17,791	18,798

[1] Less than $500,000

The cost of this bill falls in Function 500.

Basis of estimate: The cost estimate for H.R. 5, the School Improvement Act, reflects both the new and extended authorization levels for most federal elementary and secondary education programs. For those programs where specific authorizations have been stated in the bill, the estimate reflects the stated levels. For those programs authorized at such sums as may be necessary, CBO has estimated the authorization levels. It is assumed that the authorization levels are fully funded. Estimated total outlays for existing programs reflect current spending patterns. Most of the grant programs authorized in this bill are appropriated on a forward funding basis, the 1988 funds are to be used for the 1988-1989 school year, thus estimated outlays are low in the first year. For new programs, estimated total outlays reflect the spending patterns of similar grant programs. The specific assumptions are stated below.

Title I

Title I includes the basic formula grants to both the local education agencies (LEAs) and the state education agencies (SEAs) referred to as Chapter 1 grants. This title also authorizes the partnership for educational innovation grants referred to as Chapter 2 grants as well as the even start program, secondary school programs and several new studies and commissions.

The basic grants to LEAs are authorized at such sums as may be necessary. Based on the stated formula contained in the bill, CBO estimates that the 1988 cost would be $10.9 billion. Under full funding, each LEA would be entitled to 40 percent of the state's per pupil expenditure, held to a specified range around the national average, multiplied by the number of children in the school district who are from low income families as defined by the 1980 Census plus the number of certain AFDC, neglected, delinquent, or foster children not included in the Census counts. There is also a specified state minimum payment level.

There are almost 8.1 million children age 5 to 17 years old who are either children in poor families according to the 1980 Census criteria for poverty or who meet the other criteria. The total number of children is not expected to change until two or three years after the 1990 Census; thus numbers are held constant over the projection period. The national weighted average per pupil expenditure under the formula is estimated to be $1,341 for 1988. This figure has been adjusted for projected inflation over the remaining five year period to determine the outyear grant levels. The SEA grants for migratory, handicapped, delinquent, and neglected children are determined by multiplying the number of children by 40 percent of the state's per pupil expenditure similar to LEA grants. The total estimated authorization for the three SEA grants for 1988 is approximately $1.1 billion. Based on the latest estimates of children from the Department of Education, the full-time equivalent number of migrant children in states, which under H.R. 5 is expanded to include children age 3 to 21 years old, is estimated to be almost 470,000. The number of children residing in state operated facilities for the handicapped is estimated to be about 255,000 and the number of delinquent and neglected children in those facilities is estimated to be over 44,000. These populations are not expected to change significantly over the next six years.

The estimated authorization levels for the grants for both the territories and state administrative expenses are based on the specified percentages of LEA and SEA grant levels stated in the bill.

The authorization levels for Chapter 2, capital expenses, even start program, secondary school programs, and Department of Education studies are the levels specifically stated in the bill for 1988. These programs are authorized at such sums through 1993. The estimates of the outyear authorization levels reflect the 1988 stated levels adjusted for inflation. The authorization for the National Commission on Migrant Education and the school reform study are the one-time amounts stated in the bill. The cost of the GAO study would be minimal. The cost of establishing the Office of School Health Policy would also be minimal. The Office would have no operational or managerial responsibilities within the Department and thus require few staff positions.

Title II–Title IX

The authorization levels for grants for critical skills improvement, the gifted and talented, adult Indian education, and Native Hawaiian education programs are the levels specifically stated in the bill for 1988. With the exception of three Native Hawaiian programs authorized at stated levels, these grants are authorized at such sums through 1993. The estimates of the outyear such sums authorization levels reflect the 1988 stated level adjusted for inflation.

The grants for partnership in education, magnet schools, excellence in education, bilingual education, adult eduction, and impact aid grants all currently are authorized through 1988. Grants for drug-free schools and communities, women's education equity, Ellender fellowships, immigrant education, territorial assistance, financial assistance to LEA's for the education of Indian children, improvement of education opportunities for Indian children, special education training programs for teachers of Indian children, fellowships for Indian students, and the National Advisory Council on Indian Education all are authorized through 1989. H.R. 5 either sets new 1988 authorization levels or extends the current levels for these programs. The 1988 and 1989 authorization levels for those programs shown in the table reflect the difference between current and new authorizations. In those cases where the current authorization is such sums, that level is assumed to be the amount appropriated for 1987 adjusted for projected inflation in 1988. With the exception of territorial assistance and grants for improvement of Indian education opportunities, which would be authorized at specified amounts for all years, the programs are authorized at such sums through 1993. These outyear authorization levels reflect the latest stated level adjusted for projected inflation.

The Center for Education Statistics authorization level is stated in the bill for 1988 through 1990. The estimated authorization for the Center through 1993 reflects the 1990 level adjusted for inflation. The new Office of Administrative Law Judges, which is to replace the current Educational Appeals Board, would increase Department of Education salaries and expenses less than $500,000.

Funds for construction and operation of five Native American schools are authorized at such sums as may be necessary. CBO assumes construction would begin in 1988 and the schools would be operational by 1990. The cost estimates are based on construction and operations of other elementary and secondary Indian schools. Actual costs could vary considerably.

6. Estimated cost to State and local government: H.R. 5 authorizes $13.4 billion for 1988 in grants to state and local governments. These newly authorized amounts combined with the current 1988 authorization levels for programs in Title II through Title IX total $15 billion. In 1987, actual funding for these programs was $5.7 billion.

Almost all of the grants, $13.2 billion, are formula grants. Formula grants allocate funds based on the state's proportion of the national population of specific groups defined in the bill. In the case of Chapter 1 grants to LEAs the population is children age 5 to 17 in poverty; in the case of Chapter 2 grants, the population is the total number of children age 5 to 17; and in the case of adult education, the population is the number of adults who do not have a certificate of graduation from a secondary school.

With the exception of the adult education grants, which under the bill have a 10 percent matching requirement for 1988 increasing to 20 percent over the next four years, these formula grants have no requirement that state or local governments provide additional funding to receive the grants. The bill states that these funds are to supplement state and local finances and not supplant them.

The other $200 billion in state and local government grants are competitive grants for which state and local governments may apply. Some of these grants have matching fund requirements.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Kalcevic and Ken Pott.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

INFLATIONARY IMPACT

The education programs in H.R. 5 will contribute to productivity and save costs of other social programs. Thus the bill will have an anti-inflationary impact.

SECTION-BY-SECTION ANALYSIS

Chapter 1

Title and format

Title I, Subtitle A, amends and reauthorizes through fiscal year 1993 the Federal program for educationally deprived children currently authorized by Chapter 1 of the Education Consolidation and Improvement Act (ECIA).

The bill repeals Chapter 1 of ECIA and Title I of the Elementary and Secondary Education Act and instead places all the applicable requirements from these predecessor Acts into a new, free-standing program that retains the name of "Chapter 1."

Declaration of policy and statement of purpose (sec. 1001)

In recognition of the special educational needs of children from low-income families, as well as migrant, Indian, handicapped, neglected, and delinquent children, the Congress declare it to be the policy of the U.S. to:

Provide financial assistance to meet the special needs of educationally deprived children at the preschool, elementary and secondary levels;

Expand the Chapter 1 program over the next six years by increasing program funding by at least $500 million each fiscal year from 1989 thorugh 1993; and

Provide this assistance in a way that eliminates unnecessary burden and provides flexibility to State and local educational agencies (LEAs).

The purpose of the Chapter 1 program is to improve the educational opportunities of educationally deprived children by helping them succeed in the regular school program, attain grade-level proficiency, and improve their achievement in basic and more advanced skills.

Allocation (secs. 1005, 1006, 1405)

Chapter 1 funds will be distributed to States, Puerto Rico, and the territories, and to local school districts within those States and territories, according to the current poverty formula. This formula is based on the number of low-income children multiplied by an average per pupil expenditure figure.

The distribution differs from the current formula only in that it:

Eliminates the current provision requiring distribution of a small portion of Chapter 1 funds based on 1975 mid-census data and instead uses data from the most recent decenniel census for all Part A allocations;

Defines children from low-income families according to the most recent census definition of poverty, instead of the 1970 definition;

Requires the first $400 million of new appropriations for Chapter 1 basic grants to be distributed on the basis of a concentration grant formula which channels extra funds to LEAs in counties where the number of poor children exceeds 6,500 or 15% of the enrollment. This concentration grant formula also guarantees each State a minimum of one-fourth of one percent of the amount reserved for concentration grants, and

Small States are guaranteed ¼ of 1% of the appropriation after a certain level of funding is achieved.

Uses of funds (sec. 1011)

An LEA may use Chapter 1 funds only for programs at the preschool through secondary level which meet the special educational needs of educationally deprived children.

Examples of the types of programs, activities, and expenditures which may be supported with Chapter 1 funds are:

Acquisition of instructional equipment and materials;

Employment and training of instructional and pupil services personnel and early childhood professionals;

Bonuses to teachers;

Construction (where necessary);

Parental involvement activities; and

Project planning and evaluation.

LEAs are encouraged to develop programs to assist eligible children to achieve competency in basic skills and more advanced skills and to consider year-round services.

A new provision permits LEAs, with the permission of the State educational agency (SEA), to use up to 5% of their Chapter 1 grants for 50% of the cost of innovative projects. These innovative activities are:

Continuing services to children who have improved their achievement, to help them maintain their achievement gains;

Providing services to children transferred to ineligible areas as part of a desegregation plan;

Offering incentive payments to schools that have demonstrated success;

Training regular classroom teachers to work with Chapter 1 children;

Encouraging innovative approaches to parental involvement; and

Fostering community and private sector involvement in Chapter 1. The total cost of such projects may be funded with the 5% if an LEA demonstrates that it lacks financial resources to match the Federal funds.

Applications (sec. 1012)

LEAs must submit to the SEA for approval a Chapter 1 application covering a period of up to three years.

The application must assure that:

The Chapter 1 programs will be of sufficient size, scope, and quality to give reasonable promise of success;

Will provide for services to private school children; and

Will allocate time and resources for frequent and regular coordination between Chapter 1 and the regular school instructional program.

Eligible schools (sec. 1013)

LEAs are required to use Chapter 1 funds in school attendance areas with high concentrations of low-income children. When funds are insufficient to serve all such areas, LEAs (except for those with less than 1,000 children) must rank their attendance areas according to their relative concentrations of low-income children and must select schools for Chapter 1 in this rank order. When identifying and ranking the attendance areas, LEAs must use the same measure of low-income, based on the best available data, for all areas.

Certain exceptions to this general ranking procedure are permitted (most of which derive from Chapter 1 of ECIA):

(1) Any school attendance area may be deemed eligible for Chapter 1 if the percentage of children from low income families is within 5 percent of the district average percent of such children;

(2) An attendance area with at least 25% low-income children may be considered eligible if the aggregate amount of Chapter 1 and State compensatory education funds spent in each Chapter 1 school in a fiscal year equals or exceeds the aggregate in the preceding fiscal year;

(3) With the approval of the SEA, attendance areas with substantially higher numbers or percentages of educationally-deprived children may be served ahead of areas with higher concentrations of poor children, as long as this provision is not used to serve more areas than would otherwise be served;

(4) Schools which are not in eligible attendance areas, but which have proportions of poor children as high as those in eligible attendance areas may be served;

(5) Schools or areas that were eligible in the preceding fiscal year may continue their eligibility for a single additional year; and

(6) With SEA approval, areas or schools with higher proportions of poor children may be skipped in the selection process if they are receiving from other non-Federal sources services of the same nature and scope as Chapter 1 services.

LEAs must allocate funds among Chapter 1 schools according to the number and needs of children to be served. Children who become ineligible for Chapter 1 because of improved achievement may be counted as eligible for two additional years only for the purpose of determining the allocation of funds to their Chapter 1 school. Funds allocated to a school on the basis of this special provision may be used to serve an eligible child in the school.

Eligible children (sec. 1014)

Within an eligible school, Chapter 1 funds must be used to provide services to educationally deprived children with the greatest need for special assistance. Eligible children include children up to age 21 who are entitled to free public education through grade 12 and preschool children who are below the grade where the LEA provides a free public education but who could benefit from an organized instructional program.

To determine the children in greatest need, the LEA must conduct an annual needs assessment which identifies the educationally deprived children in all eligible attendance areas and identifies the instructional areas on which the Chapter 1 program will focus. The needs assessment must result in the selection of those educationally deprived children with the greatest need, as identified by educationally related objective criteria which include written or oral testing instruments that are uniformly applied to grade levels throughout the LEA. Finally, the LEA must determine the special educational needs of participating children with sufficient specificity to ensure concentration on those needs.

There are certain exceptions to these general rules for identifying and selecting children:

(1) Educationally deprived children who are transferred from an eligible area to an ineligible one in the middle of a school year may continue their eligibility for the remainder of that year;

(2) Children in greatest need who are receiving from non-Federal sources services of the same nature and scope as Chapter 1 services may be skipped;

(3) Children receiving services to overcome a handicapping condition or limited English proficiency shall be eligible for Chapter 1 services if they have needs that stem from educational deprivation and are not related solely to the handicapping condition or limited English proficiency. These children shall be identified and selected for Chapter 1 on the same basis as other children, except that funds may not be used to provide services that are otherwise required by law to be made available to the handicapped or limited-English-proficient children;

(4) Children who were in the greatest need of assistance in the previous year and who, although educationally-deprived, are no longer in greatest need, may participate in Chapter 1 for two years; and

(5) Children who in the previous two years were receiving Chapter 1 neglected and delinquent services shall be considered eligible and selected under the general selection procedures.

Schoolwide projects (sec. 1015)

Any Chapter 1 school with 75% or more poor children may use its Chapter 1 funds for a project which upgrades the entire instructional program in the school without having to demonstrate that services are focused only on eligible children, although the Federal funds must be supplementary to State and local funds otherwise available, if the conditions below are met. Schools with schoolwide projects may use Chapter 1 funds to plan and implement effective schools programs (as defined in the definitions section of the bill) and to conduct other activities that will improve the instructional program, such as reducing class size, training staff, and implementing extended school day programs.

Before undertaking a schoolwide project, the LEA must submit to the SEA for approval a plan which:

Assesses the needs of all the students in the school;

Establishes the project goals;

Describes the specific program; and

Describes how the school will move to implement an effective schools program.

The plan must comply with certain other requirements concerning involvement of and consultation with parents, teachers, and others; adequate staff training; evaluation; allocation of Chapter 1 funds to such schools; and maintaining local effort per pupil.

The SEA may grant the authority to operate a schoolwide project for a period of three years. Schools will be allowed to continue the project for additional three year periods if they can demonstrate that the achievement of Chapter 1 children in the school exceeds the average achievement of such children district-wide or exceeds the achievement of Chapter 1 children in that same school in the three fiscal years preceding implementation of the project. Secondary schools can also qualify for continuation by demonstrating lower dropout rates, increased retention rates or increased graduation rates if achievement levels do not decline. To demonstrate these improvements, schools with projects must annually collect achievement data and make it available to the parents, the public and the SEA.

Parental involvement (sec. 1016)

LEAs must implement programs, activities, and procedures to involve parents in Chapter 1 programs. Parental involvement is defined to include parent input into program design, implementation and evaluation, volunteer and paid participation by parents in school activities, and parent efforts to improve their children's learning at home.

The goals of a local parental involvement program are:

To inform every Chapter 1 parent about his or her child's participation in the program;

To train parents to work with their children at home consistent with the instructional objectives of the program;

To train teachers and other program staff to work effectively with parents; and

To consult with parents about how the parents and schools can work together.

Toward these ends, each LEA must develop, in consultation with parents, written policies to ensure adequate parental participation and must provide reasonable support for the parent activities that parents may request. The LEA shall also convene an annual meeting of parents of participating children to explain the program and shall, to the extent practical, hold a parent-teacher conference with parents of Chapter 1 children.

The bill lists a variety of allowable parental involvement activities. Parent training, take-home materials, staff to work with parents, and parent advisory councils are just a few examples.

Participation of private school children (sec. 1017)

LEAs shall make provision, after timely and meaningful consultation with private school officials, for the participation in Chapter 1 of educationally deprived children enrolled in private schools, through such arrangements as dual enrollment, educational radio, television and technology, and mobile services and equipment. Expenditures for services to such children must be equal, considering their number and needs, to those for public school children.

The bill continues the current provision authorizing the Secretary of Education to enter into a bypass arrangement to serve private school children when an LEA is prohibited by law from doing so or has substantially failed to do so. The Secretary is required to develop a complaint procedure for resolving complaints that includes a 120-day time limit for investigation and resolution of complaints.

A new authorization of $30 million for fiscal year 1988 and such sums as necessary for the five succeeding fiscal years is included in the legislation to facilitate compliance with the Supreme Court's *Aguilar* v. *Felton* decision regarding private school participation. This authorization is for capital expenses (such as purchase, lease, and renovation of property, mobile units, and equipment; insurance and maintenance; transportation; and other goods and services) that are necessary to provide Chapter 1 instructional services to private school children.

This capital expenses fund will be distributed to States based on their number of private school children served in Chapter 1 in school year 1984–85. An LEA must apply to the State for these funds, and the State shall distribute them based on the degree of need. LEAs may be retroactively reimbursed for allowable expenses back to July 1, 1985.

Fiscal requirements (sec. 1018)

The bill continues the current "maintenance of effort" provision requiring LEAs to maintain a level of fiscal effort per student from State and local funds that is not less than 90% of such effort in the second preceding fiscal year. An LEA that fails to maintain effort shall receive a proportionately-reduced allocation. The State may grant a waiver of this provision to LEAs affected by exceptional or uncontrollable circumstances or precipitous and unforeseen declines in their financial resources.

Federal Chapter 1 funds may be used only to supplement and not to supplant non-Federal funds. However, this requirement shall not be construed to require a particular instructional method or instructional setting.

State and local funds must be used to provide services in Chapter 1 schools which, taken as a whole are comparable to services provided with State and local funds in other schools of the District. To comply with this "comparability" provision, an LEA must file with the SEA a written assurance that it has established and implemented a district-wide salary schedule, a policy to ensure equivalence among schools in teachers, administrators and auxiliary personnel, and a policy to ensure equivalence in the provision of instructional materials and supplies.

The LEA must develop procedures to comply with the comparability provision and must annually maintain records documenting compliance. Unpredictable changes in student enrollment after the school year begins shall not be factored into the comparability determination, and LEAs with not more than one building for each grade span shall be exempted from the comparability requirement.

The SEA shall monitor compliance with comparability. Those LEAs which are out of compliance shall have their Chapter 1 funds withheld only to the degree by which they have failed to comply.

To determine compliance with the anti-supplanting and comparability requirements, an LEA may exclude State and local funds for certain special programs for educationally deprived children, as defined in more detail in the bill and as approved in advance by the Secretary or SEA.

No State may take Chapter 1 funds into consideration in determining an LEA's eligibility for or amount of State aid.

Evaluation (secs. 1019, 1435, 1436)

Each LEA must evaluate the effectiveness of its Chapter 1 programs in a manner that conforms with national standards and which incorporates objective achievement measures (including a measure of whether gains are sustained over more than one year). The results shall be submitted to the SEA every three years and taken into consideration for improving the programs. SEAs are required to inform the LEAs in advance of the evaluation data that will be required.

In addition to collecting certain demographic data about program participants, SEAs shall conduct an evaluation of the program every two years, based on local data.

At the national level, the Secretary shall develop national standards for local evaluation to ensure a common reporting system. In developing these standards, the Secretary must consult with SEAs, boards of education, parents, and LEAs and notify SEAs and LEAs in advance of the requirements associated with this evaluation effort. Based on this aggregated data, the Secretary must submit a comprehensive, biennial report to Congress.

The Secretary, with his national evaluation funds, is required to conduct a national longitudinal study of the long-term effects of Chapter 1 participation on student achievement, dropout rates, delinquency, employment and earnings, and other factors.

Program improvement (sec. 1020)

Schools which show a decline in the achievement of Chapter 1 children in any year must submit a plan for improvement to the LEA, which in turn must review that plan and provide technical assistance. If the achievement at the school continues to decline for another year, the LEA must notify the SEA to provide technical assistance from the State level.

For students who remain in Chapter 1 for more than two years, the LEA must conduct a thorough assessment of their programmatic needs.

PART B—EVEN START PROGRAMS

Purpose and uses of funds (secs. 1051, 1053)

The purpose of the "Even Start" program is to improve the educational opportunities of the Nation's children by integrating early childhood education and adult education for parents into a unified, family-centered program.

The bill specifies certain components that must be included in each Even Start program:

Identification and recruitment of eligible children;

Screening and appropriate referrals for parents and children;

Provision of support services when unavailable from other sources;

Establishment of instructional programs to promote adult literacy, train parents to support their children's education, and prepare their children for success in school;

Provision of training to enable staff to develop skills necessary to work with parents and young children;

Provision of integrated instructional services through home-based programs; and

Coordination with programs under other relevant Acts.

The Federal share for these programs is limited to not more than 80% of the program costs in the first year, 60% in the second year, 40% in the third year, and 20% in the fourth year. The remaining percentage may come from State, local, or other Federal funds (including Chapter 1 Part A funds).

Allocation (sec. 1052)

Even Start funds will be allocated to States based on their relative proportions of Chapter 1 basic grant funds, except that there is a State maximum of 5% of the total when appropriations are less then $50,000,000 and a minimum of three-fourths of one percent or $100,000. Three percent of the Even Start appropriation is reserved for Even Start programs for migrant children.

Participants (sec. 1054)

Eligible participants for the Even Start programs include a parent or parents eligible for adult basic education under the Adult Education Act, and their child or children aged 1 through 7 inclusive who reside in a Chapter 1 attendance area.

Applications (sec. 1055)

LEAs must submit applications to the State which documents that the LEA has personnel qualified to run the Even Start program and which contain a plan for the program. In this plan, the LEA must describe the program's goals, activities, services, and target population, and state how the programs will serve those eligible participants most in need, will serve special populations, and will encourage participants to remain in the program long enough to meet their goals. The plan must also describe how the program will be coordinated with other relevant programs such as those under the Adult Education Act, the Job Training Partnership Act, and Head Start.

Award of grants (sec. 1056)

A seven-member review panel, appointed by the SEA with representation from various groups specified in the bill, will decide which proposals are funded.

The proposals will be judged on the basis of:

Their likelihood for success and their promise for developing transferable models;

Whether they serve areas of the State with the greatest needs and whether they are representative of urban and rural regions in the State;

The degree of cooperation with other relevant service providers;

The reasonableness of the budget; and

Their ability to provide the non-Federal share.

Evaluation (sec. 1057)

The Secretary is responsible for arranging for independent annual evaluations of the effectiveness of these Even Start programs, to be conducted by individuals not directly involved in the program.

The evaluations shall be conducted on the basis of criteria specified in the bill which are developed jointly by the independent evaluators and the program administrators and which contain objective measures of the program's goals.

The Secretary must submit to Congress a report reviewing and summarizing the evaluation results. The individual evaluations shall be submitted to the Department of Education's National Diffusion Network for possible dissemination.

Authorization (sec. 1058)

For the Even Start program, the bill authorizes $50 million for fiscal year 1988 and such sums as may be necessary for the five succeding fiscal years.

PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

SUBPART 1—PURPOSE AND AUTHORIZATION

Purpose and Authorization (secs. 1101, 1102, and 1103)

The bill authorizes $100 million for fiscal year 1988 and such sums as necessary for the five succeeding fiscal years for grants to LEAs to improve the achievement of educationally deprived secondary school students, potential dropouts, and dropouts and to reduce the number who drop out of school.

These funds would be available for national demonstration grants for 1988, 1989, and 1990 and for State-administered implementation grants for 1991, 1992, and 1993.

SUBPART 2—NATIONAL DEMONSTRATION PROGRAM

Allotment of Funds (secs. 1121, 1122, and 1123)

Of the funds available for the national program, the Secretary shall first reserve 3% for migrant programs and then evenly divide the remainder for basic skills and for drop-out prevention. Grants for drop-out prevention shall be made by ranking school districts according to their pupil size, and these grants must be matched in increasing amounts by the districts. Grants for basic skills shall be equitably distributed.

General Provisions (sec. 1124)

No district may receive more than one grant a year, and the program shall be evaluated by the Secretary.

SUBPART 3—STATE IMPLEMENTATION GRANTS

Funds Allocation (secs. 1131 and 1132)

The State-administered program takes effect in 1991 and continues through 1993. Funds are allocated to the States using the regular Chapter 1 formula. States may reserve 5% for administration and must award grants to LEAs with the greatest number of poor children or dropouts and with the greatest fiscal need.

SUBPART 4—GENERAL REQUIREMENTS

Applications (sec. 1141)

Applications must describe the goals and uses of funds and provide for the participation of private schoolchildren. In addition to other requirements, information on the numbers of drop-outs and students not receiving compensatory services must be provided.

Uses of funds (sec. 1142, 1143, and 1144)

Drop-out grants may be used for a wide range of activities in order to prevent drop-outs or to educate those who have already dropped out of school. Basic skills grants are targeted at improving the grade level proficiency of students. Not more than 10% of a grant may be used for local administration.

PART D—PROGRAMS OPERATED BY STATE AGENCIES

SUBPART 1—MIGRANT PROGRAMS

Funds allocation (sec. 1201)

The bill continues, with a few changes, the current formula for distributing funds to SEAs for programs for migratory children of migratory agricultural workers and migratory fishermen. This formula takes into account the number of migrant children residing in the State (on a full-time equivalent basis) multiplied by an average per pupil expenditure factor.

The bill makes the following changes in the migrant allocation provisions:

The formula must be based on the number of migratory children aged 3 to 21 (instead of 5 to 17, as currently);

The Secretary must allow a 5% error rate in States' determinations of student eligibility; and

The Secretary must develop a standard certification form to assist States in determining eligibility.

Program requirements (sec. 1202)

The Secretary approves applications for migrant funds submitted by the States after determining that:

The funds will be used to meet the special educational needs of migratory children;

The programs will be coordinated with other Federal programs relevant to migrants;

The programs will be administered in a manner consistent with the Chapter 1 basic grant provisions related to uses of funds, applications, children's eligibility, and fiscal requirements;

The program will be planned and operated in consultation with parent advisory councils (in the case of programs lasting through a school year) and that all migrant programs will comply with the general Chapter 1 parental participation provisions;

The preschool needs of migrant children will be provided for;

The programs will be evaluated in terms of their effectiveness and, in the case of formerly migrant students who have been served in full-year programs for at least two years, the evaluations will determine whether improved achievement is sustained.

Eligibility (sec. 1202)

For up to five years after "settling out" of the migrant stream, a child shall be considered migrant for purposes of this program; however, currently migrant children shall be given priority for Chapter 1 Part D programs. The Secretary is required to use certain regulatory definitions relating to migrant students' eligibility that were in effect on April 30, 1985.

Bypass (sec. 1202)

If the Secretary determines a State is unable or unwilling to conduct educational programs for migrant children, the Secretary may arrange to bypass the State and carry out these programs through other public or private nonprofit agencies. A bypass may also be initiated if the Secretary determines it would result in more efficient and economic administration or would substantially improve the welfare or educational attainment of migrant children.

State coordination activities (sec. 1203)

In consultation with the States and with State approval, the Secretary may make grants to SEAs for activities to improve the interstate and intrastate coordination of migrant programs.

The Secretary is also authorized to enter into contracts with SEAs to operate a system for transferring migrant student records among SEAs and LEAs. The Secretary shall continue to award the records transfer contract to the SEA that operated it in the preceding year, unless a majority of States notify the Secretary in writing that the SEA with the contract has substantially failed to perform its duties.

The Secretary may also make grants to or contracts with SEAs to develop and establish a national program of credit exchange and accrual to assist migrant students in meeting graduation requirements.

For the State coordination activities, the Secretary shall reserve up to $6 million or 5% of the appropriation.

SUBPART 2—HANDICAPPED PROGRAMS

State eligibility (sec. 1221)

The State educational agency is eligible to receive a grant. Current law states only "the State agency".

Application (sec. 1221)

The bill requires that the State assure that grant recipients will comply with P.L. 94-142, EHA; monitor compliance; coordinate services with EHA services; and from 1991 on administer the program through the State office which administers EHA.

Grant amount (sec. 1221)

The bill continues the current formula for distributing funds.

Reporting (sec. 1221)

Child count is based on children enrolled on December 1 in programs supported with these funds. The date has been changed from October 1 to make it consistent with P.L. 94-142, and "average daily attendance" is changed to children enrolled to reflect current practice.

Program requirements, LEA application (sec. 1222, 1224)

The bill simplifies application requirements for small or single purpose projects in LEAs; describes general assurances on use of funds; and states that funds must supplement the provision of special education, be used for activity not supported with state or local funds the previous year, and funds benefit the children counted.

Uses of funds (sec. 1223)

The bill delineates examples of acceptable supplementary uses of funds and delineates reporting requirements for within-state applications.

Eligible children (sec. 1225)

The bill describes the eligible populations handicapped children from birth to 21 who are not counted for part B of EHA, are participating in State-operated or supported programs, have been transfered to LEA programs, or other handicapped children if all those above are fully served.

GAO study (sec. 1226)

The GAO must conduct a study of this program and its relationship to EHA and report to Congress by January 30, 1989.

SUBPART 3—NEGLECTED AND DELINQUENT PROGRAMS

Funds allocation (sec. 1241)

SEAs shall receive grants for educating children in institutions for neglected and delinquent youngsters or in adult correctional institutions. Funds are distributed to States based on a formula which considers the number of such children in the State multiplied by an average per pupil expenditure factor.

Program requirements (sec. 1242)

Subpart 3 funds are to be used for programs that meet the special educational needs of children in neglected and delinquent institutions, children attending community day programs for the neglected and delinquent, and children in adult correctional institutions. The State application for these funds may cover a period of up to three years.

The neglected and delinquent programs must comply with the general Chapter 1 provisions regarding uses of funds and eligible students and with the regular Chapter 1 fiscal requirements (except for comparability). These programs are to supplement the basic educational services provided such children by the State; programs which are supplementary in terms of the number of hours of instruction the students receive shall be considered to comply with this provision, without regard to the subject areas in which those hours are provided.

Evaluation (sec. 1242)

The neglected and delinquent programs must be evaluated annually to determine their impact on the ability of such children to maintain and improve educational achievement, to maintain school credit, and to make the transition to an LEA educational program.

Transition services (sec. 1243)

Up to 10% of the funds under Subpart 3 may be used by the Secretary for grants to SEAs and LEAs for projects that facilitate the transition of neglected and delinquent children into locally-operated programs.

SUBPART 4—GENERAL PROVISIONS FOR STATE AGENCY PROGRAMS

Reservation of funds (sec. 1291)

Up to one percent of the funds under subparts 1, 2, and 3 are to be reserved for payments to the outlying areas to carry out migrant, State handicapped, and neglected and delinquent programs. This percentage is to be allotted by the Secretary among the territories according to their respective needs.

Dual eligibility (sec. 1292)

Neglected and delinquent children eligible for programs for handicapped children under subpart 2 may be counted for each subpart for purposes of grant allocation.

PART E—PAYMENTS

Payment methods, amounts, and adjustments (secs. 1401, 1402, 1403, 1406)

The Secretary shall pay to SEAs and LEAs the amounts to which they are entitled. If the appropriations are insufficient to pay the full amounts under the formula, the amounts for the State agency programs under Part D shall first be paid in full. From the remainder, the LEAs shall receive their basic grant allocations, which shall be ratably reduced if appropriations are insufficient. No LEA may receive less than 85% of its previous year's allocation. All of these payment provisions are subject to the availability of appropriations.

State administration payments (sec. 1404)

States shall receive 1% of their Part A and Part D allotments, or $300,000, whichever is greater, for State administration of these programs. The territories shall receive $50,000 for this purpose.

The amount of State administrative funds that can be used for State indirect costs is limted to 15% of the total administrative funds available.

PART F—GENERAL PROVISIONS

SUBPART 1—FEDERAL ADMINISTRATION

Federal regulations (sec. 1431)

The Secretary is authorized to issue reasonable regulations. Proposed regulations must be reviewed by regional panels of Federal, State, and local administrators, teachers, parents, and local and State school board members. In emergencies, regulations may be issued prior to review but must then be immediately reviewed prior to issuance in final form.

Chapter 1 programs may not be required to follow any one instructional model, such as the provision of services outside the regular classroom or school program.

Availability of appropriations and carryover (sec. 1432)

Chapter 1 funds shall become available for obligation on July 1 of the fiscal year in which they are appropriated and shall remain available through the end of the subsequent fiscal year.

The bill places the following ceilings on the amount of funds LEAs may carry over for one additional fiscal year:

25% for fiscal year 1988; and
15% for fiscal year 1989; and thereafter.

An SEA may grant an LEA a one-time waiver of these carryover limits if the SEA determines the request is reasonable and necessary, or may grant a waiver for any year if supplemental appropriations under this chapter become available. The percentage limitation does not apply to LEAs with less than a $50,000 allocation.

Withholding, judicial review (secs. 1433, 1434)

The bill continues the current provisions for judicial review and for withholding funds from SEAs where there has been a failure to substantially comply with the Chapter 1 provisions. The basis of review is section 458(c) of the General Education Provisions Act.

Coordination of administration (sec. 1437)

The Secretary is required to develop a policy manual for Chapter 1 to assist SEAs and LEAs in implementing and administering programs.

The Secretary must respond in writing within 90 days to written requests from States and LEAs regarding Chapter 1 policies, questions, and interpretations.

The Secretary is required to operate a network of centers, accessible through electronic means, to provide technical assistance to States and LEAs in such areas as evaluation, program improvement, parental involvement, instruction, and curriculum.

To the extent possible, the Secretary must provide information to States and LEAs about the opportunities for disseminating exemplary programs through the National Diffusion Network and must coordinate Federal exemplary project identification activites with such network.

The Secretary must provide for a review of State and local administration of Chapter 1 programs.

Federal research (sec. 1438)

The Secretary is authorized to make small grants for applied research and innovative projects on promising educational models to serve educationally deprived children and on promoting parent involvement.

Priority is given to research tutoring programs for eligible children carried out by students in institutions of higher education and to research on the problems of rural districts.

Authorization (sec. 1439)

For fiscal 1988 $12 million is authorized, and such sums as necessary are authorized for the five succeeding fiscal years, for Federal evaluation, technical assistance, and research activities.

Application of General Education Provisions Act (sec. 1440)

GEPA is made generally applicable to Chapter 1 with specific exceptions for sections that are superseded or apply only partially.

National Commission on Migrant Education (sec. 1441)

Authorizes $2 million for a 12-member commission, including House and Senate representatives from both political parties to study issues related to the education of migrant children. Reports and recommendations are to be issued to the President and appropriate congressional committees. The commission is authorized for three years.

Study of participation of private school children (sec. 1442)

The Comptroller General is directed to conduct a study of the effects of the *Aquilar* v. *Felton* decision on Chapter 1 services to private school children and to report those findings to Congress. The study is to be updated periodically.

SUBPART 2—STATE ADMINISTRATION

State rulemaking (sec. 1451)

Nothing in this chapter shall be interpreted to: preempt, prohibit, or encourage State regulations which are not in conflict with Chapter 1 law and regulations, and other applicable laws and regulations.

State rules and policies may not limit LEA decisions regarding grade levels to be served, course areas, instructional settings or kinds of instructional staff. Any State rule must be identified as a State-imposed requirement.

Before they are proposed and finalized, State rules must be reviewed by a committee of practitioners, including administrators, teachers, parents, and LEA school board members.

Records and information (sec. 1452)

Each SEA shall keep records and provide such information as may be required for fiscal audit and program evaluation.

Assignment of personnel (sec. 1453)

Chapter 1 LEA personnel may be assigned limited supervisory, non-instructional duties that are assigned to similarly-situated non-Chapter 1 personnel, as long as such duties do not exceed the same proportion of total time spent in such duties by similarly situated non-Chapter 1 personnel at the same school site or exceed one period per day, whichever is less.

States with programs meeting the requirements of Sec. 1018(d) (State compensatory education programs) may use Chapter 1 funds to pay personnel working in both Chapter 1 and the State program as long as the amount is pro-rated to time spent in each program, and time distribution records reflecting the time allotment are maintained by the employee so assigned.

SUBPART 3—DEFINITIONS

The bill continues the current Chapter 1 definitions and adds new ones for "pupil services personnel," "effective schools programs," "parent advisory council," "more advanced skills," and "community-based organizations."

SUBPART 4—MISCELLANEOUS PROVISIONS

For the period extending from October 1, 1987 through June 30, 1988, recipients may expend funds in accordance with the provisions of this Act or Chapter 1 of ECIA.

Effective October 1, 1987, ECIA Chapter 1 and ESEA Title I are repealed.

Chapter 2

Section 1501

Largely restates the current purpose of Chapter 2, which is to provide SEAs and LEAs with Federal funds to be used to improve educational services.

Section 1511

Authorization is for $580,000,000 for fiscal year 1988 and such sums for each of the five succeeding years.

Section 1512

Funds are allocated to States on the same formula as current law. School age population is the major formula factor.

Section 1513

The current split of 20% of State grant funds being retained at the State level and 80% being allocated to LEAs is maintained. LEA funds are distributed on an "adjusted" school enrollment basis. The exact nature of the "adjusted enrollment" is determined by each State but must weight the within-State formula so that LEAs with the greatest numbers or percentages of low income or rural children receive greater allocations. Adjusted allocations for these "high cost" children must flow to the school buildings with the children who generated these allocations.

Section 1521

The State application remains much as it is in current law.

Section 1522

States can use their 20% funds to: 1) administer the Chapter 2 program, 2) provide technical assistance to LEAs to help carry out purposes of the chapter, and 3) carry out effective schools programs. No State can use less than 25% of the State money to carry out effective schools programs.

Section 1531

The local application is largely unchanged from current law.

Section 1532

LEAs may use their grants for any of the following purposes:
(1) at-risk and high cost children
(2) effective schools
(3) instructional and educational materials
(4) personnel enhancement
(5) special projects.

These allowable uses of funds would continue the flexibility currently available in Chapter 2.

Section 1551

This section continues the maintenance of effort and supplement not supplant.

Section 1552

Private school participation is guaranteed on an equitable basis as in current law.

Sections 1553 and 1554

These sections describe the requirements for local and State evaluation and reporting and Federal technical assistance and rulemaking.

Sections 1561-1567

National programs and activities are continued as in current law. The only exception to this is the deletion of the Drug Education program which was duplicative of the drug prevention legislation passed in the 99th Congress.

Sections 1591 and 1592

Chapters 2 and 3 of ECIA are repealed, and transition to the new Chapter 2 is clarified.

Title II—Critical Skills Improvement

Short title (sec. 2010)

The Critical Skills Act (Replaces the Title II, Education for Economic Security Act, mathematics and science program)

Statement of purpose (sec. 2020)

Strengthening economic competitiveness and national security . . . by improving the skills of teachers and the quality of instruction in mathematics and science . . .

Program authorized (sec. 2030)

$400,000,000 in grants to States for fiscal year 1988 and such sums for each of the five succeeding fiscal years.

Allocation of funds (sec. 2040)

(1) one-half of one percent to Guam, American Samoa, Virgin Islands and Trust Territories.

(2) one-half of one percent to Indian students.

(3) Five percent for National Programs.

(4) Fifty percent of remainder distributed to States based on school enrollment.

(5) Fifty percent of remainder distributed to States based on each State's Chapter 1 allocation.

(6) No State shall receive less than one half of one percent or less than it received in FY 1987.

Within State distribution (sec. 2050)

Twenty percent to SEA and State agency for higher education for State programs, planning, and administration.

Remainder to LEAs on the basis of a 50 percent enrollment/50 percent poverty formula.

In any case where distribution to LEA is less than $3,000, such LEA must apply for funds as part of a consortium with other groups.

State application (sec. 2060)

Submission of three year plan to include assurances: fiscal control, supplement/supplant, evaluation of teacher preparation, licensing, certification, participation of underrepresented groups, targeting of rural areas and areas with high concentrations of low-income students, annual evaluation.

Projection of teacher supply and demand, assessment of current math and science curriculum.

Description of teacher training and curriculum needs, and a description of activities undertaken.

Local application (sec. 2070)

Application shall include: needs assessment of current teachers, projection of future teacher demand, assessment of student achievement in math and science, curriculum requirements, coordination of state, local and other Federal resources (especially National Science Foundation programs); coordination with other community and private resources (museums, professional association, etc.); assurance of participation by underrepresented groups, assurance that evaluation will be conducted and reported.

Uses of State funds (sec. 2080)

Describes allowable use of State funds: statewide programs, teacher training activities, evaluation, technical assistance, small grants.

5 percent cap on administrative expenses.

LEA uses of funds (sec. 2090)

Describes allowable activities and use of funds at LEA level: teacher training and recruitment, incentive bonuses for hiring qualified teachers in areas of high need, start-up funding for magnet schools, and coordination of elementary and secondary curriculum.

Teacher training activities (sec. 2100)

Describes activities to be conducted by the State and locals to improve teacher training and skills including academic year and summer inservice programs, evening and weekend programs, workshops, and exchange programs, grants.

Participation of children and teachers from private schools (sec. 2110)

Makes provision for including services and arrangements for the benefit of private school children and teachers.

Federal administration (sec. 2120)

Provides for technical assistance for State and local evaluations and for annual report to Congress.

National programs (sec. 2130)

Describes activities, such as model programs of national significance that the Secretary may undertake.

Repeal and extension (secs. 2145 and 2146)

Repeals Title II of the Education for Economic Security Act.

Extends Title III of the Education for Economic Security Act through fiscal year 1993 with an authorization of $10 million for fiscal 1988 and such sums as necessary for the succeeding years.

Title III—Magnet Schools

This title extends the Magnet Schools Program through 1993 and authorizes $115 million for Fiscal Year 1988 and such sums thereafter. The title also forbids the Secretary from making a determination about grant awards solely on the basis of the prior receipt of funds and limits to 15% the amount of funds which may remain available for obligation and expenditure in a succeeding fiscal year.

Title IV—Gifted and Talented Programs

Sec. 4001

Short Title: "The Jacob K. Javits Gifted and Talented Children and Youth Education Act of 1987".

Sec. 4020

Findings: gifted and talented students are a national resource whose abilities must be recognized and developed; State and local educational agencies often lack the resources to carry out gifted and talented programs; the Federal government can best carry out a role of research, development, and personnel training for gifted and talented education. Purposes: to aid educational agencies in initiating coordinated programs to meet the special educational needs of gifted and talented children and to supplement other programs that reach this target population.

Sec. 4030

Defines terms used in the bill.

Sec. 4040

Establishes a program of grants to State and local educational agencies, institutions of higher education, and other public and private organizations and agencies for gifted and talented programs.

Lists the uses of funds including training personnel; establishing and operating model programs; strengthening State leadership and capacity; providing technical assistance; and carrying out national research, evaluation, surveys, and data collection.

Establishes a National Center for Research and Development in the Education of Gifted and Talented Children and Youth. Limits funds for this Center and for other national activities to 30% of the amount appropriated.

Sec. 4050

Places highest priority on (1) identifying gifted and talented children who may be overlooked through traditional identification methods (such as those who are economically disadvantaged, handicapped, or of limited English proficiency) and (2) special projects to improve the programs for gifted and talented in an entire State.

Sec. 4060

Requires the Secretary to ensure that provision is made for the equitable participation of children and teachers in private nonprofit elementary and secondary schools.

Sec. 4070

Establishes a national advisory committee on gifted and talented education.

Sec. 4080

Requires the Secretary to establish a unit within the Department of Education to administer this program and coordinate all gifted programs within the Department.

Sec. 4090

Authorizes $25 million for fiscal year 1988 and such sums as necessary for the five subsequent fiscal years for this Title.

Title V—Drug Education

Authorization of appropriations (section 5111)

This section extends the Drug-Free Schools and Communities Act of 1986 through fiscal year 1993 and sets an authorization level of $250 million for fiscal year 1988 and "such sums as necessary" for fiscal years 1989, 1990, 1991, 1992, and 1993.

State programs (Section 5122)

This section provides that grants and contracts will include a youth suicide prevention program in addition to all of the other provisions delineated in this section.

State applications (Section 5123)

This section requires that applications submitted by States will also include a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations, in addition to all of the other requirements of this part.

Federal activities (Section 5132)

This section requires that the Secretary of Education in conjunction with the Secretary of Health and Human Services will also include "a study of the relationship between drug and alcohol abuse and youth suicide," in the report to be submitted to the President and the appropriate committees of the Congress.

Title VI—Special Programs

PART A—WOMEN'S EDUCATIONAL EQUITY

Sections 6001-6009

These sections extend the Women's Educational Equity Act program through 1993 and set the authorization at $20 million for 1988 and "such sums" thereafter. The sections also require that the program be administered in the Office of Educational Research and Improvement.

PART B—ELLENDER FELLOWSHIP PROGRAM

Sections 6201-6206

This program is extended through 1993 and encouraged to give fellowships to handicapped and poor immigrant children, and up to 5% of the funds may be used for additional program opportunities for educators and the elderly and to establish learning activities at the State and local government level.

PART C—THE EMERGENCY IMMIGRANT EDUCATION ACT

Authorizations and allocations of appropriations (section 6303)

Extends the Emergency Immigrant Education Act at $40 million for fiscal year 1989 and at "such sums as may be necessary" for each of the fiscal years 1990, 1991, 1992, and 1993.

Reports (section 6310)

Requires that the Secretary receive an annual report from each state educational agency receiving funds under this Part. The report may include such information as services provided, number of students served, nationality of students served, and any other such information which may lead to more improved reporting as may be required by the Secretary.

Requires that the Secretary submit an annual report to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources including services provided to this population, number of students served, nationality of students served and any other such information which may lead to more improved reporting.

Requires the Comptroller General of the United States to conduct a national assessment of programs under this Part by March 15, 1989 and every third year thereafter to be submitted to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources.

PART D—TERRITORIAL ASSISTANCE

Sections 6404, 6405, and 6410

The programs of territorial assistance for teacher training and general assistance to the Virgin Islands are both extended through 1993.

PART E—EXCELLENCE IN EDUCATION

Sections 6501-6509

This program is extended through 1993.

Title VII—Bilingual Education

Short Title (Section 7001)

Cites the title as the "Bilingual Education Act."

Policy; Appropriations (section 7002)

Adds language: "that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition." This finding reflects the multiple benefits of instructional programs which use and develop a child's non-English native language.

Adds new finding regarding the twin goals of programs for limited English proficient student—developing academic achievement and English proficiency—by including the following language: "That, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency."

Language is added noting that programs under this Act help promote the nation's international competitiveness.

Language is included which indicates that there is a shortage of qualified educational personnel to serve children of limited English proficiency.

Language is included which indicates that Title VII programs should enable students to meet grade-promotion and graduation requirements.

Extends the Bilingual Education Act from FY 1988 to FY 1993.

Under current law, 75 percent of Part A funding is exclusively reserved for transitional bilingual education (TBE) programs. This legislation alters this reservation by including developmental bilingual education programs (DBE) in the existing Part A funding set-aside. LEAs have requested this change to add flexibility to the current Part A funding reservation and to increase available support for bilingual education programs which optimize the benefits of dual language education.

Eliminates one-percent funding set-aside for the National Advisory and Coordinating Council on Bilingual Education (NACCBE) which is not reauthorized under the legislation.

Extends the Bilingual Education Act at $246 million for FY 1988 and at "such sums as may be necessary" for FY 1989 to FY 1993. This level of funding would make possible the enrollment of approximately 363,000 LEP students in Title VII programs which would result in 150,000 more than are currently being served. Full funding at the new authorization level would nearly double support for necessary parent and school personnel training programs. The new limit on appropriations is still $170 million less than the FY 1981 limit.

Part A programs (i.e., Transitional Bilingual Education; Developmental Bilingual Education; Special Alternative Instructional Programs; Programs of Academic Excellence; Family English Literacy Programs; Bilingual Preschool, Special Education, and Gifted and Talented Programs, would receive at least as much funding as they currently receive in FY 1987 in any future appropriations under this Act in addition to adjustments for inflation.

Existing law specifies that Part C, Training and Technical Assistance, receive 25% of the appropriations under Title VII. Although Part C would receive its fiscal year 1987 funding level plus adjustments for inflation, it would no longer continue to receive 25% of total funding, but would receive not less than 20 percent of total funding.

Eliminates the 4% cap and reserves not less than 70 percent and not more than 75 percent of remaining funds from any increases in appropriations for special alternative instructional programs.

Provides for twenty-five percent of the remaining sums from increases in appropriations to be reserved for programs of developmental and transitional bilingual education. For developmental bilingual education programs, $1,000,000 would be available for fiscal year 1988, and for each subsequent fiscal year an amount which exceeds by $150,000, the amount for the preceding fiscal year.

Definitions; regulations (section 7003)

Eliminates language providing the Secretary with the authority to further define "limited English proficiency". Also eliminates language which permits the Secretary to further define "limited English proficiency" of American Indians and Alaskan Natives."

Includes language which permits Family English Literacy Programs to include instruction designed to enable aliens who are otherwise eligible for temporary resident status under the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and other approved courses.

Amends definition of "programs of academic excellence" to emphasize that programs are to focus on effective school and teaching practices for limited English proficient students.

Eliminates definition of the National Advisory and Coordinating Council on Bilingual Education (NACCBE) which is not reauthorized under the legislation.

Expands the prohibition in current law against the Secretary's redefining "some terms" in the Act to cover "all terms" defined in the Act.

Strengthens existing requirement regarding parent notification by specifying that information provided to parents be in "a language and form the parents understand."

Bilingual education programs (section 7021)

Separate grants for the development of instructional materials are eliminated. This change will have little impact on school districts since few instructional materials grants have been made in recent years and the since development of instructional materials is a permissible activity under all other Part A grant programs.

Programs under this subsection may also use available funds to provide technology-based instruction to students in order to enhance the program.

Changes "and private non-profit organizations" to "or private non-profit organizations" to clarify that separate applications, as well as joint applications, are permitted by this section for grants for academic excellence, family literacy, or special populations.

Specifies that applications for the program grants will include a description of the training provided to educational personnel and parents.

Eliminates the existing requirement that grantees engage exclusively in pre-service activities during the first six months of a grant and also eliminates the existing provisions for waiver of this requirement by the Secretary. This provision permits grantees to engage exclusively in pre-service activities during the first 12 months of a grant. This elimination provides additional flexibility to educational officials receiving grants for programs of transitional bilingual education, developmental bilingual education, or special alternative instruction.

Adds the requirement that the information provided to parents be in a language and form the parents understand. This provision strengthens and clarifies existing requirements concerning the provision of information to parents regarding Title VII programs.

Changes the existing one-to-three year period for special population program grants to three years so as to standardize the basic grant period for all Part A programs. Deletes references to materials development grants.

Requires that local education agencies provide appropriate support to Title VII parent advisory councils.

Provides that training under program grants assist educational personnel in meeting State and local certification requirements. The current legislation provides that the applicant will provide or secure training for personnel participating, or preparing to participate in the program.

Requires that the Secretary give priority in awarding alternative instructional grants to grant applications which contain the following: (1) the administrative impracticability of establishing a bilingual education program because of a small number of students requiring these services; (2) the lack of qualified personnel to provide bilingual instructional services; and (3) the applicant's current or past efforts to establish a bilingual education program.

Grants for State programs (section 7032)

Increases the minimum State education agency grant from $50,000 to $75,000 to enable States to carry out more required and permissible activities under the Act.

Program evaluation requirements (sections 7033 and 7034)

Eliminates the requirement that the Secretary consult with the National Advisory Coordinating Council for Bilingual Education (NACCBE) in developing Title VII program evaluation requirements.

Requires that the Secretary consult with State directors of bilingual education, Evaluation Assistance Centers, other individuals, and organizations with expertise in testing and evaluation in developing Title VII program evaluation requirements.

Research (section 7035)

Specifies that longitudinal studies measuring the effects of education of students who have language proficiencies other than English pertain to students enrolled in Title VII programs.

Requires also that the longitudinal study includes the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this title and provides information including data on grade retention, academic performance, and dropout rates.

Specifies that research activities also include the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs and coordinate its activities with the National Diffusion Network.

Deletes requirement that the Secretary consult with the NACCBE on research and adds requirement for consultation with the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor.

Forbids federal activities that might, in any way, affect the content of educational textbooks.

Coordination of research (section 7036)

Deletes requirement for consultations with the National Advisory and Coordinating Council on Bilingual Education (NACCBE) to insure that research activities undertaken complement and do not duplicate other activities under this Act.

Requires consultation with the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor in terms of insuring that research activities undertaken complement and do not duplicate other activities under this Act.

Education statistics (section 7037)

Requires that the annual report by the National Center for Educational Statistics on the education of limited English proficient persons, required under current law, should include, to the extent feasible, data collected by other Federal agencies as well as the Department of Education.

Training and technical assistance (section 7041)

Eliminates requirement for parent advisory committee consultation in developing Title VII professional training programs; requires applicants to consult with SEAs and LEAs in developing professional training programs.

Requires that Title VII professional training programs should help school personnel meet local and State certification requirements.

Fellowships (section 7043)

Provides that at least 500 fellowships be provided each year FY 1988 through FY 1993 for advanced study of bilingual education or special alterantive instruction programs for limited English proficiency (LEP) students in such areas as teacher training, program administration, research and evaluation, and curriculum development. This provision requires that the recipient be involved in a program of study leading to a master's or doctorate degree.

Office of bilingual education and minority language affairs (section 7051)

Requires the Director of OBEMLA to report annually to Congress and the President on the grants and contracts made and the number of individuals benefiting from Title VII programs during the preceding fiscal year.

Requires that the Secretary submit to Congress and the President a biennual report on the condition of bilingual education in the Nation, not later than February 1 of the following years: 1988, 1990, and 1992; deletes reference to consultation with NACCBE.

Requires that information on Title VII research activities and major research findings be included in the Secretary's biennual report on the condition of bilingual education.

Adds provision requiring the Secretary to use non-Federal employees who are experienced and involved in programs similar to those assisted under the Act to read and score competitive applications for grants under Parts A and C of the Act.

Requires the Secretary to solicit nominations for readers from State bilingual education directors.

Authorizes the expenditures of Parts A and C program funds to pay for application reading and scoring services.

Limitation of authority (section 7052)

Prohibits the Secretary from imposing restrictions on the availability or use of Title VII funds other than those set out in the Act or other applicable Federal statutes and regulations. This provision is designed to protect the prerogatives of local school officials under Title VII.

Transition and repeal (section 7063)

Repeals Title VII of the Elementary and Secondary Education Act; provides that current Title VII grants and contracts shall not be affected by the amendments.

Title VIII—Indian Education

PART A

Section 8101—Amends current provision requiring studies and consultation before B.I.A. takes negative action for any school program by recognizing all current B.I.A. education programs (including dorms and contract or grant schools) as authorized by Congress. No action terminating, transferring, consolidating or substantially curtailing them could be taken except upon the request of a tribe or permission of Congress. Retains the study provisions, but makes them into a report before request for authority to act.

Section 8102—Includes "transfer to any other authority" in the list of actions.

Section 8103—Creates an exception to the above section for emergency situations where there is an "immediate hazard to health and safety", provided the Bureau gets an outside opinion from an applicable building authority that such a condition exists.

—also requires, in statute, that the Bureau publish standards for the funding of new schools and expands Zia and Tama schools to K–8.

Section 8104—The Bureau has proposed standards for privacy and space requirements for Bureau boarding situations. The Bureau schools will have a hard time meeting them. The Bureau states that it does not intend to implement them at this time, but there have been some actions recently which have called this position into question. This applies the tribal waiver provision currently in statute for academic standards to these standards, states that schools could not be closed for failure to meet them, and requires a report to Congress on the cost of full implementation.

Section 8105—Essentially freezes all B.I.A. education regulations which are in effect now (except for the Personnel provisions). States that no other changes can be made to those. Maintains the regulatory status quo, because the Bureau is currently revising a number of regulations to cut down responsibility, parental control, and tribal input, without getting field or Congressional input.

Section 8106—Amends the statutory formula to require a factor for residential programs to serve students for less than 9 months a year (to allow students who can live at home except during bad weather to be served on this basis), amends the weight for 7th and 8th graders and adjusts the small school factor.

Section 8107—Administrative cost formula—the major problem with tribes taking Self-Determination contracts (where the Bureau provides the funding but the tribe or tribal organization runs the program) has been a lack of a method for setting the administrative/indirect cost payments which would go to a tribe to support the activity. In the past, most of these amounts have been set by arbitrarily determined rates, on lump-sum payments or as mixtures of the two, largely based upon the contractor's expertise in getting certain expenses covered. The Bureau has not developed a formula (though in the 1978 amendments it was requested) and will not even define what the term "administrative costs" covers. Repeated attempts by Congress to get the issue handled have failed.

This amendment would create a formula for determining the administrative cost payments. The formula was developed by: (1) charting as a graph the current payments for indirect costs to contract schools, (2) adjusting these amounts for the shortfalls in negotiated payments which has been caused by the B.I.A., (3) defining the activities to be conducted and funded under the heading of administrative costs, (4) determining how many of the schools currently match this set of tasks, and adjusting the curve accordingly for those doing more or less, and (5) constructing a mathematical formula on the curved result. The formula which approximates the curve is:

[(12% × total B.I.A. program/all activities funds received by each contractor or grantee) times (½ the average B.I.A. contracted or grant program/all activities amount received), divided by the total program/all activities funds received by each contractor or grantee plus the average B.I.A. program/all activities amount,] times the total education program funds received by each entity, expressed as a percentage to the second decimal place. There are provisions for an isolation adjustment.

This would then be put into the Indian Student Equalization Formula.

Also amends the Indian Student Equalization Formula to set a factor for school board training and costs for school board activities.

Also says that under the lead agency concept, the Bureau would support all programs coming through it.

Also allows B.I.A. schools limited carry-over authority.

Section 8108—defines the allowable administrative costs.

Section 8109—In 1984, the Congress set up a system to allow local procurement of up to $25,000 of supplies/annum, due to problems with the normal procurement system meeting emergency needs. In 1985, pursuant to B.I.A. request, the authority was amended to be subject to Assistant Secretary guidelines.

The Assistant Secretary does not intend to publish guidelines. The amendment incorporates a system of guidelines (developed as part of a court settlement by the Navajos and the B.I.A.) and makes them immediately applicable to all Bureau schools.

Section 8110—amends the statute to state that if, subject to the availability of funds under the I.S.E.F., a tribe and a local public school enter into a cooperative arrangement to coordinate their services and programs, the Bureau shall implement it. The Bureau would not be a party to the agreement.

Section 8111—requires B.I.A. education decisions be made only after consultation with those affected and defines the term consultation.

Section 8112—corrects a problem with the 1978 statute by clarifying that the case-by-case waiver of Indian preference allowed tribes (or their designees) under the statute applies to all personnel actions, not just initial hires.

Section 8113—requires the Assistant Secretary conduct a study and report to Congress on the disparity between the compensation paid by Bureau funded and neighboring public schools, and whether this is having a negative impact on Bureau hiring and retention.

—States that where such negative impact is found, the Assistant Secretary will use the authority already in statute to authorize the local Bureau school to pay the statutory differential for hiring and retention purposes, providing that in all cases of greater than 10% vacancy or 5% disparity, the authority is automatically given to the local school officials.

PART B

Section 8201—Names this Act the "Indian Self Determination Grants Act of 1987".

Section 8202—Congressional findings—the Act builds on the Indian Self-Determination Act of 1975 and is patterned after same.

Section 8203—Policy—Renews government commitment to Indian Education.

Section 8204—the grants under this act shall go into a general fund and may be used to defray a wide range of expenses, except that no more may be spent on administrative costs than was generated under the administrative formula provision, and that in instances where one grantee operates more than one school site, no less than 95% of the funds generated by site must be spent at the site.

Section 8205—recognizes three different groups of schools for purposes of determining eligibility for grants currently contracted operations, currently B.I.A. operated and new schools. All will require tribal support on applications.

Section 8206—sets out very specific timelines and guidelines (patterned after current Self-Determination Act) for each set of schools or expansions (NOTE—currently contracted programs could elect to participate in the grants without a separate determination of eligibility). Includes factors for consideration of new, non-B.I.A. funded schools and program expansions. Would require Tribal support for the application and timely responses by the Bureau. Stipulates the Bureau officials to receive the applications.

Section 8207—Upon a determination of eligibility, the school shall receive a grant. The school could continue to receive a grant each year without additional findings or applications as long as it remained accredited, by the entities stipulated in the amendment, and submitted the required reports in a timely fashion (also stipulated in the amendment). The amendment is structured so that all determinations on performance will be made by non-B.I.A., outside parties.

Section 8208—one grant per year shall be made to each school or program under this program and shall include all funds attracted by the school from the Bureau for the year.

Also has language to handle over- and under-recovery audit issues.

Section 8209—makes certain protections and provisions of the Self-Determination Act applicable to this program—current contractors may elect to participate in this program.

Section 8210—the Director of the Office of Indian Education Programs shall process applications and actions under this Act.

Section 8211—Modeled after Chapter II of E.C.I.A., the Secretary will not publish additional program regulations adding requirements.

Section 8212—Definitions—mainly modeled after the definitions in the Self-Determination Act.

PART C

Section 8301—Extends all of the authorities under the Indian Education Act through Sept. 30, 1993.

Section 8302—amends the eligibility determination criteria for the program by:

> Clarifying that the term "member" in the definition means member as defined by the applicable tribe, band or other organized group.
>
> Deleting the Form 506 as a tool for establishing eligibility and returning its original function as an information collection document.
>
> Stating that a parent could present any evidence he had, including evidence of community recognition as an Indian, to the Parent Committee for consideration; the Parent Committee then to make a recommendation on sufficiency to the LEA. The LEA would make the final decision, provided that it could not accept as eligible any student whom the Parent Committee recommended as ineligible. These determinations would have to follow written guidelines which would be established by the parent committee and the LEA. These decisions would not be subject to Department of Education review.

PART D

This Part authorizes the establishment of not more than five native American Indian schools on Indian lands to serve Indian students residing on Indian lands. Each school would be established as a separate corporation with a Board of Trustees. Certain rules would apply to the appointment of the Superintendent and to the appointment of the staff of such schools. Indian preference would apply in all actions at such schools.

These schools would be tax-exempt and their Boards of Trustees are authorized to establish endowment funds for the benefit of such schools. No new funding would be authorized; rather, funding currently available for the education of Indian children would be made available for their education at such schools.

PART E

This Part recognizes the unique problems faced by Native Hawaiian children and establishes a series of new programs to meet these needs. These programs include model curriculum implementation projects, family-based education centers, higher education demonstration programs, gifted and talented demonstration programs, and special education programs. These programs would be respectively authorized at the following amounts for Fiscal Year 1988:

> $3 million for curriculum,
> $2.4 million for family centers,
> $1.25 million for higher education programs,

$1 million for gifted and talented programs, and
$1.5 million for special education programs.

All these programs would be authorized at such sums as may be necessary for Fiscal Years 1989 through 1993.

Title IX—Other Laws

PART A—ADULT EDUCATION

This title rewrites the Adult Education Act. The following descriptions are of the revised sections of the Act:

(Part A—Basic Program Provisions)

Statement of Purpose (Sec. 311)

This bill will clarify that the adults to be served are those who lack sufficient literacy skills requisite to effective citizenship and productive employment. Current law seeks to expand educational opportunities for adults and to encourage the establishment of programs of adult education.

Definitions (Sec. 312)

This bill clarifies and expands the definition of an adult who is eligible to receive adult education services. It states that an adult who receives services must not be enrolled in school.

Authorization of Appropriations; Allotments (Sec. 313)

The authorization level will be $200 million for fiscal 1988 and "such sums" for each year through fiscal 1993.

The funding trigger for national programs has been lowered from $112 million to $108 million, and the level of funding for national programs has been lowered from 5 percent to 3 percent.

(Part B—State Programs)

Use of Funds; Local Appropriations (Sec. 322)

This bill provides that States may also use grants under this section to carry out programs by a consortium which includes a for-profit agency, organization, or institution, if such agency, organization or institution can make a significant contribution to attaining the objectives of this Act.

Current law states that grants provided under this section may not be used to carry out programs by a for-profit agency, organization, or institution unless such agency, organization, or institution (A) can make a significant contribution to attaining the objectives of this Act, and (B) can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public institutions.

Private Sector Adult Education Training (Sec. 323)

This bill allows States to use not more than 10 percent of the State allotment to provide for literacy and other basic skills to currently employed individuals in programs operated by business, labor, and education partnerships. These progrms must be jointly operated by business or labor organizations or PICs and a local education agency or institution of higher education.

Current law has no set aside amount for providing literacy and other basic skills training to currently employed individuals in programs operated by business, labor, and education partnerships.

Local Administrative Cost Limits (Sec. 324)

This bill limits local administrative costs to 5 percent of funds provided. However, in cases where the administrative costs are insufficient to adequately plan, administer, evaluate, and coordinate programs supported under the act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for non-instructional purposes. Current law does not cap local administrative costs.

State Administration (Sec. 331)

This bill will limit State administrative costs to not more than 5 percent of the amount appropriated to each State (including the operation and administration of the State Advisory Council under Section 332).

Current law does not cap State administrative costs. It does not require States to provide funds to State Advisory Councils. The law states that a State may use funds granted to support a State Advisory Council.

State Advisory Council on Adult Education (Sec. 332)

This bill specifies that the State must designate or establish an advisory council, appointed by the Governor. It specifies the composition of the Advisory Council in general terms including procedures for selecting its chairperson, and length of terms and duties. It also specifies that the duties of the Advisory Council include advising the State Agency about policies governing State activities and initiatives that the private sector might undertake.

Current law does not require that a State establish an advisory group, appointed by the Governor. It states that a State may use funds to support a State Advisory Council.

Four-year State Plan (Sec. 342)

This bill will: a) change the plan's cycle from three to four years; b) require public hearings to provide citizen access to State plans; c) require review of the plan by State agencies in the States to prevent duplication of services; d) require submission of the State plan to the Advisory Council for its review and comment, and e) require the State to assess the needs of adults it is serving or proposes to serve.

State Application (Sec. 343)

This bill will require State assurances of proper administration of this program and of non-supplanting.

Evaluation (Sec. 352)

This bill requires that the State agency, after appropriate lead time, evaluate 25 percent of the State's eligible recipients on an annual basis, and it specifies the content of those evaluations. Current law requires that the Secretary of Education also evaluate eligible recipients.

Special Experimental Demonstration Projects and Teacher Training (Sec. 353)

This bill adds "homeless" as another focal group.

Payments (Sec. 361)

This bill will gradually raise the State share of funding for adult education. The State match will incrementally rise to 20 percent over a three year period. For fiscal year 1988 the Federal match will remain at 90 percent, 87 percent for FY 1989, 83 percent for FY 1990, and 80 percent for FY 1991, 1992, and 1993.

Current State match is 10 percent, and has been 10 percent for the past 20 years.

(Part C—National Programs)

Sections 372 through 376

These sections establish national programs that the Secretary of Education will initiate when the program's funding level reaches $108 million: 1) adult migrant farmworker and immigration education (current law repealed the adult immigration section in 1984); 2) State program analysis and policy studies; 3) adult literacy volunteer training; 4) joint study of services; and 5) national research activities.

(Educationally Disadvantaged Adults)

Throughout the revised Act, amendments were adopted requiring a consideration by the State of the needs of educationally disadvantaged adults, who are defined as those below the fifth grade level in skills or placing in the lowest level of an adult education program. These amendments emphasize the increased concern which must be given to this group by requiring the States to give preference in funding to local applications which are meant to serve such adults.

PART B—IMPACT AID

Authorizations of Appropriations for Impact Aid (Sections 9201 and 9202)

H.R. 5 extends through fiscal year 1993 P.L. 81-874, Financial Assistance for Local Education Agencies in Areas Affected by Federal Activity, at $735 million for fiscal year 1988. The bill also extends the provisions in the section on "Federal Acquisition of Real Property" to October 1, 1993. H.R. 5 extends the provisions in the section on "Children of Persons who Reside or Work on Federal Property" to October 1, 1993. Further, this legislation extends the provisions in the section on "Sudden and Substantial Increases in Attendance Increases Hereafter Occurring" to October 1, 1993. Finally, in P.L. 81-874, the provision on "Assistance for Current School Expenditures in Cases of Certain Disasters" is also extended to October 1, 1993 in both places where 1988 appears.

H.R. 5 also extends the provisions in the section on "Establishment of Priorities" for school construction projects to September 30, 1993. This provision is in P.L. 81-815, Construction of School Facilities in Areas Affected by Federal Activities. P.L. 81-815 is reauthorized in the amount of $24 million for fiscal year 1988. The bill also extends the provisions in the section on "School Construction Assistance in Cases of Certain Disasters" to October 1, 1993, of P.L. 81-815. H.R. 5 also extends the section on "Definitions" in regard to the "base year" by striking 1978-1979 and inserting 1988-1989.

Children Residing On, or Whose Parents are Employed On, Federal Property (Section 9203)

Corrects a provision in current law where non-Indian parents who reside on nontaxable land are being forced to pay tuition to send their children to schools where they are employed or schools that exist within the community. This legislation provides for the payment of tuition for non-Indian students who attend these schools and live on nontaxable land.

PART C—GENERAL EDUCATION PROVISIONS ACT (GEPA)

Audit reform

Section 9301.—This section revises the part of GEPA which deals with appeals from final audit determinations. Each revised section is described below.

Section 451.—Office of Administrative Law Judges.—This section would replace the current Education Appeals Board with an Office of Administrative Law Judges (ALJs) and would formalize along the lines of the Administrative Procedures Act the procedures to be used in the conduct of hearings. Rules for discovery would be clarified and include the right to acquire information leading to admissible evidence through the use of depositions, interrogatories, and documents. Judges would be given explicit power to issue subpoenas. The provisions of the Equal Access to Justice Act, relating to costs of litigation and attorneys' fees, would apply to the proceedings. Furthermore, the Secretary would be required to establish a process for voluntary mediation of disputes.

Section 452.—Recovery of funds.—As under current law, this section would generally prescribe the procedures for resolving disputes regarding the recovery of funds before the ALJs. The Department's preliminary departmental decision (PDD) would be required to establish a prima facie case. State recipients in State-administered programs would be required to transmit a copy of the PDD to any affected subrecipient—such as a local educational agency—within 10 days and to consult with these subrecipients regarding the application for ALJ review. The burden of proof in proceedings before the ALJs would continue to be on the recipient. The Secretary would review the facts found by the Judges on the basis of the substantial evidence test. The Department would be barred from taking a collection action pending the completion of judicial review. The section would also clarify that a decision of the ALJs becomes final agency action, and ripe for judicial review under section 458 of the Act, sixty days after the recipient receives written notice of the ALJ's decision, unless the Secretary either modifies or sets aside the decision (in which case the decision becomes the final agency action when the recipient receives written notice of the Secretary's action), or remands it to the ALJs for further consideration. The Secretary would be required to publish final agency decisions in the Federal Register or another appropriate publication. The limit on the Secretary's authority to compromise would be raised from $50,000 to $200,000.

Section 453.—Measure of recovery.—This new section would clarify how the Inspector General, program officials, and the ALJ are to measure recovery. It would be made clear that the disallowance would be calculated proportionate to the extent of harm the recipient's violation caused to an identifiable Federal interest. This section would identify a number of such Federal interests. In addition, this section would identify certain mitigating circumstances which, if present, would bar the recovery of funds. These mitigating circumstances immunize a recipient 1) if the violation occurred as a result of reasonable reliance on incorrect Department guidance, 2) if the violation occurred as a result of the Department's failure to reply within 90 days to a written SEA or LEA guidance request certified as lawful by the chief legal officer of the SEA, or 3) actually and reasonably relied on a judicial decree issued to the recipient. In addition, the Secretary would be required to disseminate responses to SEA guidance request and periodically review written requests for guidance to determine the need for new or supplementary regulations.

Section 454.—Remedies for existing violations.—This section would provide that whenever the Secretary has reason to believe that a recipient of a grant or cooperative agreement is failing to comply substantially with any applicable requirement of law, the Secretary has the option to withhold further payments under that program, seek a cease and desist order, enter into a compliance agreement, or take any other action authorized by law.

Section 455.—Remedies for existing violations.—Section 455 of the Act, in conjunction with section 454, would authorize the Secretary to withhold funds from a recipient that is failing to comply substantially with an applicable requirement of law, and would also establish the procedures, including an opportunity for a hearing before the Office of Administrative Law Judges, the Secretary must follow to withhold funds. The proposed section 455 is substantially similar to the current section 453 of the Act.

Section 456.—Cease and desist orders.—Section 456 of the Act, in conjunction with section 454, would authorize the Secretary to issue a complaint against a recipient that is failing to comply substantially with an applicable requirement of law, and would also establish the procedures, including an opportunity for a hearing before the Administrative Law Judges, the Secretary must follow to withhold funds. The proposed section 455 is substantially similar to the current section 453 of the Act.

Section 457.—Compliance agreements.—Section 457 of the Act would allow the Secretary to suspend a withholding action pursuant to a compliance agreement entered into by the State or local educational agency with the Federal government. The compliance agreement would be in effect for a specified period unless the State or local education agency fails to comply with the agreement. This section would also allow for State and local educational agencies to enter into compliance agreements.

Section 458.—Judicial review.—This section would be substantively unchanged from current law in providing for judicial review in the appropriate United States Court of Appeals of final agency action regarding recoveries under section 452, withholding under section 455, and cease and desist orders under section 456. The proposed section 458 is substantially similar to the current section 455 of the Act.

Section 459.—Use of recovered funds.—Section 459 of the Act would authorize the Secretary, whenever the Department recovers funds from a recipient because of a misuse of funds, to return up to 75 percent of the recovered funds to the recipient. In order to facilitate the early resolution of disputes and to ensure that funds returned to the recipient benefit those who were affected by the original mis-expenditure, this section would clarify that funds are available for three years from the PDD. In order respects proposed section 459 is substantially similar to the current section 456 of the Act.

National Center for Education Statistics

Sec. 9311.—This section amends the authority in the General Education Provisions Act for a National Center for Education Statistics within the U.S. Department of Education. The amendments are intended to enhance the independence of the Center, along the lines of the Bureau of Labor Statistics and other governmental statistical agencies, and to improve the quality of its data. New provisions in the bill specify that the director of the National Center for Education Statistics will be made a Presidential appointee with a fixed, four-year term. Other amendments set up a system to provide for more comparable data from all States, improve the privacy protections of those who provide data, and improve the data on dropout and retention rates. The section authorizes $25.8 million for the National Center for fiscal year 1988, $32.8 million for fiscal 1989, $37.3 million for 1990, and such sums as necessary for the three succeeding fiscal years.

School improvement data

Sec. 9350.—This section amends the portion of the General Education Provisions Act that authorizes the National Assessment of Educational Progress, to require such assessment to include data on the performance in basic skills of students served by Chapter 1.

Title X—General Provisions

Sec. 10001.—This section makes the definitions in section 1471 of Chapter 1 of the Act applicable to the entire Act, except where otherwise provided.

Sec. 10002.—This provision clarifies that any new spending authority in this Act is effective for any fiscal year only to the extent or in such amounts as are provided in appropriations acts.

Sec. 10003.—This section provides that, except where otherwise noted, the effective date of the Act is October 1, 1987.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Education Consolidation and Improvement Act of 1981

* * * * * * *

[CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

[DECLARATION OF POLICY

[Sec. 552. The Congress declares it to be the policy of the United States to continue to provide financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, on the basis of entitlements calculated under title I of the Elementary and Secondary Education Act of 1965, but to do so in a manner which will eliminate burdensome, unnecessary, and unproductive paperwork and free the schools of unnecessary Federal supervision, direction, and control. Further, the Congress recognizes the special educational needs of children of low-income families, and that concentrations of such children in local educational agencies adversely affect their ability to provide educational programs which will meet the needs of such children. The Congress also finds that Federal assistance for this purpose will be more effective if education officials, principals, teachers, and supporting personnel are freed from overly prescriptive regulations and administrative burdens which are not necessary for fiscal accountability and make no contribution to the instructional program.

[DURATION OF ASSISTANCE

[Sec. 553. During the period beginning October 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for grants made on the basis of entitlements created under title I of the Elementary and Secondary Education Act of 1965 and calculated in accordance with provisions of that title in effect on September 30, 1982.

[APPLICABILITY OF TITLE I PROVISIONS OF LAW

[Sec. 554. (a) Program Eligibility.—Except as otherwise provided in this subtitle the Secretary shall make payments based upon the amount of, and eligibility for, grants as determined under the following provisions of title I of the Elementary and Secondary Education Act in effect on September 30, 1982:

[(1) Part A—"Programs Operated by Local Education Agencies":

[(A) Subpart 1—"Basic Grants"; and

[(B) Subpart 2—"Special Grants".

[(2) Part B—"Programs Operated by State Agencies":

[(A) Subpart 1—"Programs for Migratory Children";

[(B) Subpart 2—"Programs for Handicapped Children";

[(C) Subpart 3—"Programs for Neglected and Delinquent Children"; and

[(D) Subpart 4—"General Provisions for State Operated Programs".

[(b) Administrative Provisions.—The Secretary, in making the payments and determinations specified in subsection (a), shall continue to use the following provisions of title I of the Elementary and Secondary Education Act as in effect on September 30, 1982:

[(1) Part E—"Payments":

[(A) Section 191—"Payment Methods";

[(B) Section 192—"Amount of Payments to Local Educational Agencies";

[(C) Section 193—"Adjustments Where Necessitated by Appropriations"; and

[(D) Section 194—"Payments for State Administration", subject to subsection (d) of this section.

[(2) Part F—"General Provisions":

[(A) Section 197—"Limitation on Grants to Puerto Rico"; and

[(B) Section 198—"Definitions" and conforming amendments to other Acts, except that only those definitions applicable to this subtitle shall be used.

[(c) Applicability Rule.—The provisions of title I of the Elementary and Secondary Education Act of 1965 which are not specifically made applicable by this chapter shall not be applicable to programs authorized under this chapter.

[(d) Amendment.—Section 194(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "1.5 per centum" and inserting in lieu thereof "1 per centum".

[AUTHORIZED PROGRAMS

[Sec. 555. (a) General.—Each State and local educational agency shall use the payments under this chapter for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of educationally deprived children.

[(b) Program Design.—State agency programs shall be designed to serve migratory children of migratory agricultural workers or of migratory fishermen, handicapped children, and neglected and delinquent children (as described in subparts 1, 2, and 3, respectively, of part B of title I of the Elementary and Secondary Education Act of 1965) in accordance with section 554(a)(2) and the other applicable requirements of this chapter. The Secretary shall continue to use the definitions of "agricultural activity", "currently migratory child", and "fishing activity" which were in effect on June 30, 1982, in regulations prescribed under subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965. No additional definition of "migratory agricultural worker" or "migratory fisherman" may be applied after the date of enactment of this subsection to such subpart 1, except that such definition shall be modified to include children of migratory fishermen, if such children reside in a school district of more than 18,000 square miles and migrate a distance of 20 miles or more to temporary residences to engage in fishing activity.

[(c) Program description.—A local education agency may use funds received under this chapter only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 556(b)(2), and which are included in an application for assistance approved by the State educational agency. Such programs and projects may include the acquisition of equipment and instructional materials, employment of special instructional and counseling and guidance personnel, employment and training of teacher aides, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, the construction, where necessary, of school facilities, other expenditures authorized under title I of the Elementary and Secondary Education Act as in effect September 30, 1982, and planning for such programs and projects.

[(d) Records and Information.—Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

[(e) Evaluation.—Each State educational agency shall—

[(1) conduct an evaluation of the programs assisted under this chapter at least every two years and shall make public the results of that evaluation; and

[(2) collect data on the race, age, and gender of children served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter.

APPROVAL OF APPLICATIONS

[Sec. 556. (a) Application by Local Educational Agency.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years, and such application has been approved by the State educational agency.

[(b) Application Assurances.—The application described in subsection (a) shall be approved if it provides assurances satisfactory to the State educational agency that the local educational agency will keep such records and provide such information to the State educational agency as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the State agency under this chapter), and that the programs and projects described—

[(1)(A) are conducted in attendance areas of such agency having the highest concentrations of low-income children; or

[(B) are located in all attendance areas of an agency which has a uniformly high concentration of such children;

[(2) are based upon an annual assessment of educational needs which identifies educationally deprived children in all eligible attendance areas, requires, among the educationally deprived children selected, the inclusion of those children who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;

[(3) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served and are designed and implemented in consultation with parents and teachers of such children;

[(4) will be evaluated in terms of their effectiveness in achieving the goals set for them, and that such evaluations shall include objective measurements of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year, and that the results of such evaluation will be considered by such agency in the improvement of the programs and projects assisted under this chapter; and

[(5) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 557.

[(c) Exemption From Targeting.—The requirements of subsection (b)(1) shall not apply in the case of a local educational agency with a total enrollment of less than one thousand children, but this subsection does not relieve such an agency from the responsibility to serve children under the assurances set forth in subsection (b)(2).

[(d) Local Educational agency Discretion.—Notwithstanding subsection (b)(1) of this section, a local educational agency shall have discretion to make educational decisions which are consistent with achieving the purposes of this chapter as set forth in this subsection, as follows:

[(1) A local educational agency may designate any school attendance area in which at least 25 per centum of the children are from low-income families as an eligible school attendance area.

[(2) A local educational agency may, with the approval of the State educational agency, designate as eligible (and serve) school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this provision shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by the local educational agency.

[(3) Funds received under this chapter may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

[(4) If an eligible school attendance area or eligible school was so designated in accordance with subsection (b)(1)(A) in either of two preceding fiscal years, it may continue to be so designated for a single additional fiscal year even though it does not qualify in accordance with subsection (b)(1)(A).

[(5) With approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this chapter, but (A) the number of children attending private elementary and secondary schools who receive services under this chapter shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this chapter shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

[(6) A child who, in any previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this title for the current year.

[(7) Educationally deprived children who begin participation in a program or project assisted under this chapter who, in the same school year, are transferred to a school attendance area or a school not receiving funds under this chapter, may continue to participate in a program or project funded under this chapter for the remainder of such year.

[(8) The local educational agency is not required to use funds under this chapter to serve educationally deprived children in greatest need of assistance if such children are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this chapter.

[(9) In the case of any school serving an attendance area that is eligible to receive services under this chapter and in which not less than 75 per centum of the children are from low-income families, funds received under this chapter may be used for a project designed to upgrade the entire educational program in that school in the same manner and only to the same extent as permitted under section 133(b) of the Elementary and Secondary Education Act of 1965 (but without regard to paragraph (4) of such section).

[(10) Public school personnel paid entirely by funds made available under this chapter may be assigned limited, rotating, supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. Such duties may not exceed the same proportion of total time as is the case with similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less.

[(e) PARENTAL INVOLVEMENT.—For the purposes of complying with the assurances given pursuant to subsection (b)(3) with respect to consultation with parents of participating children, (1) a local educational agency shall convene annually a public meeting, to which all parents of eligible students shall be invited, to explain to parents the programs and activities provided with funds made available under this chapter, and (2) if parents desire further activities, the local educational agency may, upon request, provide reasonable support for such activities.

[PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

[SEC. 557. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 555(c), 556(b) (1), (2), and (4), and 558(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

[(b) BYPASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

[(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

[(3)(A) When the Secretary arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

[(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

[(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

[(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

[(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[(c) Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 prior ot the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

[GENERAL PROVISIONS

[SEC. 558. (a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

[(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 per centum of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

[(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

[(b) Federal Funds to Supplement, Not Supplant Regular Non-Federal Funds.—A State educational agency or other State agency in operating its State level programs or a local educational agency may use funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, he made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter, and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter outside the regular classroom or school program.

[(c) Comparability of Services.—(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a while, are substantially comparable in each project area.

[(2) A local educational agency shall be deemed to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established—

[(A) a districtwide salary schedule;

[(B) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

[(C) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

[(d) Exclusion of Special State and Local Program Funds.—For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children, including compensatory education for educationally deprived children (which meets the requirements of section 131(c) of the Elementary and Secondary Education Act of 1965). For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

[(1) bilingual education for children of limited English proficiency,

[(2) special education for handicapped children or children with specific learning disabilities, and

[(3) certain State phase-in programs as described in section 131(d) of the Elementary and Secondary Education Act of 1965.

[(e) ALLOCATION OF FUNDS IN CERTAIN STATES.—Notwithstanding section 111(a)(3)(C) of the Elementary and Secondary Education Act of 1965, in any State in which a large number of local educational agencies overlap county boundaries, the State educational agency is authorized to make allocations of basic grants and special incentive grants directly to local educational agencies without regard to counties, if such allocations were made during fiscal year 1982, except that (1) precisely the same factors are used to determine the amount of such grants to counties, and (2) a local educational agency dissatisfied with such determination is afforded an opportunity for a hearing on the matter by the State educational agency.

[NATIONAL ASSESSMENT OF COMPENSATORY EDUCATION ASSISTED UNDER THIS CHAPTER

[SEC. 559. (a) The Secretary shall conduct a national assessment of compensatory education assisted under this chapter, through independent studies and analysis by the National Institute of Education. The assessment shall include descriptions and assessments of the impact of (1) services delivered, (2) recipients of services, (3) background and training of teachers and staff, (4) allocation of funds (to school sites), (5) coordination with other programs, (6) effectiveness of programs on student's basic and higher order academic skills, school attendance, and future education, and (7) a national profile of the way in which local educational agencies implement activities described under section 556(b). The National Institute of Education shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required by this section. The National Institute of Education shall report to Congress the preliminary results of the assessment required by this section in January and July of 1986, and a final report shall be prepared and submitted to the Congress not later than January 1, 1987.

[(b) Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the Department of Education before their transmittal to the Congress, but the President and the Secretary may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

[CHAPTER 2—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

[STATEMENT OF PURPOSE

[SEC. 561. (a) It is the purpose of this chapter to consolidate the program authorizations contained in—

[(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

[(2) the Alcohol and Drug Abuse Education Act.

[(3) part A and section 532 of title V of the Higher Education Act of 1965;

[(4) the Follow Through Act (on a phased basis);

[(5) section 3(a)(1) of the National Science Foundation Act of 1950 relating to precollege science teacher training; and

[(6) the Career Education Incentive Act;

into a single authorization of grants to States for the same purposes set forth in the provisions of law specified in this sentence, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by single authorization of grants to States for the same purposes set forth in the provisions of law specified in this sentence, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. It is the further purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

[(b) The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under the chapter shall be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of the students in their own districts.

[AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE

[SEC. 562. (a) There are authorized to be appointed such sums as may be necessary for fiscal year 1982 and each of the five succeeding fiscal years to carry out the provisions of this chapter.

[(b) During the period beginning July 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for the purposes of this chapter.

[(c) Funds available under previously authorized programs shall be available for the purpose of such payments in accordance with section 514(b)(2) of the Omnibus Education Reconciliation Act of

1981. Until September 30, 1983, such funds may also be used to assist in phasing out programs described in section 516(a) and in promoting an orderly transition to operations under this chapter.

[ALLOTMENTS TO STATES

[SEC. 563. (a) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 6 per centum of the sums appropriated, to carry out the purposes of section 583. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 per centum of such remainder.

[(b) For the purposes of this section:

[(1) The term "school-age population" means the population aged five through seventeen.

[(2) The term "States" includes the fifty States, the District of Columbia, and Puerto Rico.

[STATE APPLICATIONS

[SEC. 564. (a) Any State which desires to receive grants under this chapter shall file an application with the Secretary which—

[(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

[(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

[(A) public and private elementary and secondary schoolchildren;

[(B) classroom teachers;

[(C) parents of elementary and secondary schoolchildren;

[(D) local boards of education;

[(E) local and regional school adminstrators (including principals and superintendents);

[(F) institutions of higher education; and

[(G) the State legislature;

to advise the State educational agency on the allocation among authorized functions of funds (not to exceed 20 per centum of the amount of the State's allotment) reserved for State use under section 565(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

[(3) sets forth the planned allocation of funds reserved for State use under section 565(a) among subchapters A, B, and C of this chapter and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 586, including administrative costs of carrying out the responsibilities of the State educational agency under this chapter;

[(4) provides for timely public notice and public dessemination of the information provided pursuant to paragraphs (2) and (3);

[(5) beginning with fiscal year 1984, provides for an annual evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public;

[(6) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (conistent with the responsibilities of the Secretary under this chapter);

[(7) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has exercised and will exercise no influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to its application under section 566; and

[(8) contains assurances that there is compliance with the specific requirements of this chapter.

[(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

[(c) Notwithstanding section 1745 of this Act, local educational agencies receiving less than an average $5,000 each year under this chapter need not be audited more frequently than once every five years.

[ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

[SEC. 565. (a) From the sum made available each year under section 563, the State educational agency shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

[(1) children from low-income families,

[(2) children living in economically depressed urban and rural areas, and

[(3) children living in sparsely populated areas.

[(b) The Secretary shall approve criteria suggested by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with reference to the factors set forth in subsection (a).

[(c) From the funds paid to it pursuant to sections 563 and 564 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 566 the amount of its allocation as determined under subsection (a).

[LOCAL APPLICATIONS

[SEC. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year for which its application to the State educational agency has been certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—

[(1) sets forth the planned allocation of funds among subchapters A, B, and C of this chapter and for the programs authorized by such subchapters which it intends to support, including the allocation of such funds required to implement section 586;

[(2) provides assurances of compliance with provisions of this chapter relating to such programs, including the participation of children enrolled in private, nonprofit schools in accordance with section 586;

[(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

[(4) in the allocation of funds for programs authorized by this chapter, and in the design, planning, and implementation of such programs, provides for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

[(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

[(c) Each local educational agency shall have complete discretion, subject only to the provisions of this chapter, in determining how funds the agency receives under this section shall be divided among the purposes of this chapter in accordance with the application submitted under this section. In exercising such discretion, it shall be the responsibility of each local educational agency to ensure that each expenditure of funds under this chapter is for the purpose of meeting the educational needs within the schools of that local educational agency.

[Subchapter A—Basic Skills Development

[USE OF FUNDS

[SEC. 571. Funds allocated for use under this subchapter shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II of the Elementary and Secondary Education Act of 1965, relating to basic skills improvement, including the special mathematics program as formerly authorized by section 232 of such title.

[STATE LEADERSHIP AND SUPPORT SERVICES

[SEC. 572. (a) In order to achieve the purposes of this subchapter, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions—

[(1) to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teacher training institutes; and

[(2) for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

Each State educational agency may also use such funds for technical assistance and training for State boards of education.

[(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

[(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

[(2) voluntary training activities for parents to encourage and assist them to help their children in developing basic skills;

except that such activities conducted in local areas shall be conducted with the approval of and in conjunction with programs of local educational agencies.

[SCHOOL LEVEL PROGRAMS

[SEC. 573. (a) In planning for the utilization of funds it allocates for this subchapter (from its allotment under section 565) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 586. Such plans shall be developed in conjunction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administrators, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. The programs shall include—

[(1) diagnostic assessment to identify the needs of all children in the school;

[(2) the establishment of learning goals and objectives for children and for the school;

[(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teacher aides and other support personnel, designed to improve instruction in the basic skills;

[(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

[(5) procedures for testing students and for evaluation of the effectiveness of programs for maintaining a continuity of effort for individual children.

[(b) The programs described in subsection (a) may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

[Subchapter B—Educational Improvement and Support Services

[STATEMENT OF PURPOSE

[SEC. 576. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title IV, relating to educational improvement, resources, and support, title V, relating to State leadership, title VI, relating to emergency school aid, of the Elementary and Secondary Education Act of 1965, section 3(a)(1) of the National Science Foundation Act of 1950, relating to precollege science teacher training, and part A and section 532 of title V of the Higher Education Act of 1965, relating to the Teacher Corps and teacher centers, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

[AUTHORIZED ACTIVITIES

[SEC. 577. Programs and projects authorized under this subchapter include—

[(1) the acquisition and utilization—

[(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

[(B) of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only.

which takes into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

[(2) the development of programs designed to improve local educational practices in elementary and secondary schools and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, including children in private schools);

[(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools if such assistance is not conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and that such assistance is not made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

[(4) comprehensive guidance, counseling, and testing programs in elementary and secondary schools and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment);

[(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies;

[(6) programs and projects to assist in teacher training and in-service staff development, particularly to better prepare both new and in-service personnel to deal with contemporary teaching and learning requirements and to provide assistance in the teaching and learning of educationally deprived students; and

[(7) programs and projects to assist local educational agencies to meet the needs of children in schools undergoing desegregation and to assist such agencies to develop and implement plans for desegregation in the schools of such agencies.

[Subchapter C—Special Projects

[STATEMENT OF PURPOSE

[SEC. 581. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title III, relating to special projects, title VIII, relating to community schools, and title IX (except part C), relating to gifted and talented children, educational proficiency standards, safe schools program, and ethnic heritage program, of the Elementary and Secondary Education Act of 1965, the Career Education Incentive Act, and part B of title V of the Economic Opportunity Act of 1964, relating to Follow Through programs, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

[AUTHORIZED ACTIVITIES

[SEC. 582. Programs and projects authorized under this subchapter include—

[(1) special projects (as may be determined to be desirable by the State or local educational agencies) in such areas is—

[(A) preparation of students to use metric weights and measurements when such use is needed;

[(B) emphasis on the arts as an integral part of the curriculum;

[(C)(i) in-school partnership programs in which the parents of school-age children participate to enhance the education and personnal development of the children, previously authorized by part B of the Headstart-Follow Through Act;

[(ii) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded the Headstart-Follow Through Act;

[(D) consumer education;

[(E) preparation for employment, the relationship between basic academic skill development and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment and Training Act;

[(F) career education previously authorized by the Career Education Incentive Act;

[(G) environmental education, health education, education about legal institutions and the American system of law and its underlying principles, and studies on population and the effects of population changes;

[(H) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders;

[(I) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers; and

[(J) programs to teach the principles of citizenship;

[(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

[(3) additional programs, including—

[(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

[(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subchapter A of this chapter) designed to assist students in achieving levels of proficiency compatible with established standards;

[(C) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

[(D) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others; and

[(E) programs involving training and advisory services under title IV of the Civil Right Act of 1964.

[Subchapter D—Secretary's Discretionary Funds

[DISCRETIONARY PROGRAM AUTHORIZED

[SEC. 583. (a) From the sums reserved by the Secretary pursuant to the second sentence of section 563(a) the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

[(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, and others served by this subtitle, and for assessing the needs of such individuals;

[(2) carry out research and demonstrations related to the purposes of this subtitle;

[(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subtitle; or

[(4) are designed to assist State and local educational agencies in the implementation of programs under this subtitle.

[(b) From the funds reserved for the purposes of this section, the Secretary shall first fund—

[(1) the Inexpensive Book Distribution Program (as carried out through "Reading is Fundamental") as formerly authorized by part C of title II of the Elementary and Secondary Education Act of 1965,

[(2) the programs of national significance in the "Arts in Education" Program as formerly authorized by part C of title III of such Act,

[(3) programs in alcohol and drug abuse education as formerly authorized by the Alcohol and Drug Abuse Education Act,

[(4) the law-related education program as formerly authorized by part G of title III of the Elementary and Secondary Education Act of 1965, and

[(5) a National Diffusion Network program as described in subsection (c),

at least in amounts necessary to sustain the activities described in this sentence at the level of operations during fiscal year 1981 (or $1,000,000 in the case of the program referred to in paragraph (4) and not less than 34 percent of funds reserved for the purposes of this section in the case of the program referred to in paragraph (5)), and then utilize the remainder of such funds for the other authorized activities described in subsection (a).

[(c)(1) The National Diffusion Network program under subsection (b)(5) shall be a national program that recognizes and furthers excellence in education by: (A) promoting the awareness and implementation of exemplary education programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and (B) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

[(2) The program shall be directed toward improving the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

[(3) In carrying out the program the Secretary shall—

[(A) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

[(B) assist them in implementing programs, products, and practices, which those persons determine to hold promise for improving the quality of education in the schools for which they are responsible by providing materials, initial training and ongoing implementation assistance;

[(C) ensure that all such programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

[(D) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

[(E) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers;

[(4) For the purpose of carrying out the program the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and nonprofit private educational institutions and organizations.

[Subchapter E—General Provisions

[MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY

[SEC. 585. (a)(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

[(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

[(3) The Secretary may wave, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitious and unforeseen decline in the financial resources of the State.

[(b) A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

[(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

[PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

[SEC. 586. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use under section 565, such agency after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

[(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

[(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

[(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

[(c)(1) The control of funds provided under this chapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

[(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

[(d) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

[(e)(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

[(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

[(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

[(g) When the Secretary arranges for services pursuant to this section he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

[(h)(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

[(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

[(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

[REPEALS

[SEC. 587. (a) Effective October 1, 1982, the provisions of—

[(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

[(2) part A and section 532 of title V of the Higher Education Act of 1965;

[(3) the Alcohol and Drug Abuse Education Act; and

[(4) the Career Education Incentive Act;

are repealed.

[(b) Effective October 1, 1984, subchapter C of chapter 8 of subtitle A of title VI of this Act, relating to Follow-Through programs is repealed.]

[CHAPTER 3—GENERAL PROVISIONS

[FEDERAL REGULATIONS

[SEC. 591. (a) The Secretary is authorized to issue regulations—

[(1) relating to the discharge of duties specifically assigned to the Secretary under this subtitle;

[(2) relating to proper fiscal accounting for funds appropriated under this subtitle and the method of making payments authorized under this subtitle; and

[(3) which are deemed necessary to reasonably insure that there is compliance with the specific requirements and assurances required by this subtitle.

[(b) In all other matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this subtitle.

[(c) Regulations issued pursuant to this subtitle shall not have the standing of a Federal statute for the purposes of judicial review.

[(d) Nothing in this subtitle shall be interpreted (1) to authorize State regulations, issued pursuant to procedures as established by State law, applicable to local educational agency programs or projects funded under this subtitle, except as related to State audit and financial responsibilities, or (2) to encourage, preempt, or prohibit regulations issued pursuant to State law which are not in conflict with the provisions of this subtitle. The imposition of any State rule or policy relating to the administration and operation of programs funded by this subtitle (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

[WITHHOLDING OF PAYMENTS

[SEC. 592. (a) Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this subtitle the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this subtitle, or affected chapter thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the subtitle or affected chapter thereof, to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under the subtitle or affected chapter thereof, or (2) payments by the State educational agency under the subtitle or affected chapter thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be. A transcript or recording shall be made of any hearing conducted under this subsection and shall be available for inspection by any person.

[(b) Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring his action to the attention of the public within the State.

[JUDICIAL REVIEW

[SEC. 593. (a) If any state is dissatisfied with the Secretary's action under section 592(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(b) A State educational agency and a local educational agency shall be presumed to have complied with this subtitle, but the findings of fact by the Secretary, if supported by the weight of evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings.

[(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[AVAILABILITY OF APPROPRIATIONS

[SEC. 594. Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this subtitle shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.

[DEFINITIONS

[SEC. 595. (a) Except as otherwise provided herein as used in this subtitle—

[(1) the term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands;

[(2) the term "Secretary" means the Secretary of Education;

[(3) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

[(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

[(5) the term "parent" includes a legal guardian or other person standing in loco parentis;

[(6) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade twelve;

[(7) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade twelve;

[(8) the term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities;

[(9) the term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals documents, and other related materials; and

[(10) the term "school facilities" means classrooms and related facilities (including initial equipment) for free pubic education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

[(b) Any term used in provisions referenced by section 554 and not defined in this section shall have the same meaning as that term was given in title I of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

[APPLICATION OF OTHER LAWS

[SEC. 596. (a) Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this subtitle.

[(b) The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this subtitle with repect to the programs authorized by this subtitle:

[(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 591(a) of this subtitle.

[(2) Section 426(a) of such Act is superseded by section 591(b) of this subtitle.

[(3) Section 427 of such Act is superseded by section 556(b)(3) of this subtitle.

[(4) Section 430 of such Act is superseded by sections 556(a) and 564(b) of this subtitle.

[(5) Section 431A of such Act is superseded by section 558(a) of this subtitle.

[(6) Section 453 of such Act is superseded by section 592 of this subtitle.

[(7) Section 455 of such Act is superseded by section 593 of this subtitle with respect to judicial review of withholding of payments.

[(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this subtitle and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.]

[TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

[DECLARATION OF POLICY

[SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children. Further, in recognition of the special educational needs of children of certain migrant parents, of Indian children and of handicapped, neglected, and delinquent children, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to help meet the special educational needs of such children.

[DURATION OF ASSISTANCE

[SEC. 102. During the period beginning October 1, 1978, and ending September 30, 1983, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

[PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

[Subpart 1—Basic Grants

[GRANTS—AMOUNT AND ELIGIBILITY

[SEC. 111. (a) AMOUNT OF GRANTS.—(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 156), and there is authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1976 for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be alloted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

[(2)(A) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States.

[(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Commissioner.

[(C) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year (exclusive of any amount received under paragraph (3)(D) shall be the amount arrived at by multiplying the number of children counted under subsection (c) for Puerto Rico by the product of—

[(i) the percentage determined under the preceding sentence and

[(ii) 32 per centum of the average per pupil expenditure in the United States.

[(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

[(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

[(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Commissioner for authority during any particular fiscal year to make the allocations under this part (other than section 117) directly to local educational agencies without regard to the counties. If the Commissioner approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Commission for a final determination.

[(D)(i) From one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979, there shall be allotted to each State an amount which bears the same ratio to such excess as the product of—

> [(I) the number of children in such State aged five to seventeen, inclusive, from families below 50 per centum of the median national income for four-person families from the 1975 survey of income and education conducted by the Bureau of the Census,

multiplied by—

> [(II) 40 per centum of the amount determined under the second sentence of paragraph (2)(A) and, in the case of Puerto Rico, the product determined under subparagraph (C) (i) and (ii) of this paragraph.

bears to the sum of such products for all the States.

[(ii) In any case in which the Commissioner finds that a State's percentage decrease in children from low-income families exceeds 25 per centum between the 1970 decennial census, as adjusted, and the 1975 survey of income and education, the Commissioner shall allocate funds based on the most current valid data available or based on a resurvey of the affected State by the Bureau of the Census.

[(iii) From the amount allotted to each State under division (i), the amount which each local educational agency in that State shall be eligible to receive under this subparagraph shall be an amount which bears the same ratio to the total amount allotted to such State under this subparagraph as the amount such local educational agency receives under paragraph (2) bears to the total amount of funds made available to local educational agencies in such State under such paragraph.

[(E) From the remaining one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979 after the application of subparagraph (D), there shall be allotted to each State an amount determined in accordance with paragraph (2) of this subsection.

[(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[(b) Minimum Number of Children To Qualify.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

[(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

[(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

[(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

[(c) Children To Be Counted.—(1)(A) The number of children to be counted for purposes of this section, other than for subsection (a)(3)(D), is the aggregate of—

[(i) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

[(ii) the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), subject to subparagraph (B) of this paragraph, and

[(iii) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part B for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

[(B) For the purpose of division (ii) of subparagraph (A) of this paragraph the number of children aged five through seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B) shall be reduced by one-third for fiscal year 1979; except that such reduction shall not be applicable with respect to determinations made under section 117(b) of the number of children to be counted under this subsection.

[(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

[(B) For purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1, of each year.

[(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

[(d) PROGRAM FOR INDIAN CHILDREN.—(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

[(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) n the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 3 of this part and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of subpart 3 of this part and sections 171 and 172.

[TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

[SEC. 112. Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.

[Subpart 2—Special Grants

[SPECIAL INCENTIVE GRANTS

[SEC. 116. (a) ELIGIBILITY.—(1) Each local educational agency that is eligible to receive a payment under section 111 for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if it is located in a State which has in effect for that fiscal year a State program meeting the requirements of paragraph (2) under which financial assistance is provided to meet the special education needs of educationally deprived children.

[(2) A State program meets the requirements of this subsection if, under State law—

[(A) the program meets the requirements of section 131(c); and

[(B) not less than 50 per centum of the funds expended under the program in any school district of any local educational agency in the State in the fiscal year preceding any fiscal year in which the State receives a payment under this subpart is expended in school attendance areas of such agencies having high concentrations of children from low-income families.

[(b) AMOUNT OF GRANTS.—(1) Except as provided in paragraph (3), the aggregate amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be 50 per centum of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program meeting the requirements of paragraph (2) of subsection (a) of this section.

[(2) The amount of the additional grant for each local educatinal agency in a State under this section for any fiscal year shall bear the same ratio to the amount allocated to such State under subsection (c) of this section as the amount allocated to such local educational agency under section 111 of this title for such fiscal year bears to the aggregate amount allocated to all local educational agencies in the State under section 111 for such fiscal year.

[(3) The aggregate amount which the local educational agencies in a State shall be eligible to receive under this section for any fiscal year shall not exceed 10 per centum of the aggregate amount which all local educational agencies in such State are eligible to receive under section 111 of this title for such fiscal year.

[(4) Each State which desires to receive payments under this section shall develop a system for determining the data required by subparagraph (2)(B) of subsection (a) of this section relating to the percentage of State funds expended in school attendance areas having high concentrations of children from low-income families and required by paragraph (1) of this subsection relating to the amount of State funds expended under the State program referred to in that paragraph. The State shall submit to the Commissioner such information as the Commissioner may request concerning that system.

[(c) PAYMENTS; USE OF FUNDS.—(1) Except as provided in paragraph (3), the Commissioner shall pay to each State for each fiscal year the aggregate amount to which the local educational agencies in such State are entitled under subsection (b) after any ratable reductions under subsection (d).

[(2) The total amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be added to the amount paid to such State under section 191 for such year. From the amount paid to it under this subsection, the State shall distribute to each local educational agency of the State the amount of its additional grant as determined under subsection (b)(2).

[(3) Whenever the expenditures made by a State in accordance with subsection (a) in a fiscal year equal or exceed expenditures in the preceding fiscal year, the amount paid to such State under this section shall, subject to subsection (d), not be less than the amount paid to such State under this section in the preceding fiscal year, and the total of any increases required under this paragraph shall be derived by proportionately reducing the amount paid to States which were not entitled to a payment under this section in the preceding fiscal year, except that the amount paid to a State under this section for any fiscal year shall not exceed the maximum amount to which such State is entitled for such fiscal year under paragraph (1) of subsection (b).

[(4) The amount paid to a local educational agency under this part shall be used by such agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to all other requirements in subpart 3 of this part.

[(d) Ratable Reductions.—If the sums appropriated pursuant to subsection (e) for a fiscal year are not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under this section, the amount to be paid such agencies shall be ratably to the extent necessary to bring such payments within the limits of the amounts so appropriated. In case additional funds become available for making payments under this section for that year, such reduced amounts shall be increased on the same basis that they were reduced.

[(e) Appropriations.—There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for the three succeeding fiscal years.

[GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

[Sec. 117. (a) Purpose.—It is the purpose of this section to provide additional assistance to local educational agencies in counties with especially high concentrations of children from low-income families to enable local educational agencies in such counties to provide more effective programs of instruction, especially in the basic skills of reading, writing, and mathematics, to meet the special educational needs of educationally deprived children.

[(b) Eligibility for an Amount of Special Grants.—(1) Each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

[(A) the number of children counted under section 111(c) of this title for local educational agencies in such county for the preceding fiscal year exceeds five thousand, or

[(B) the number of children counted under section 111(c) exceeds 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year,

except that no such State shall receive less than one-quarter of 1 per centum of the sums appropriated under subsection (d) for such section for such fiscal year.

[(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Commissioner shall determine the product of—

[(A) the number of children in excess of five thousand counted under section 111(c) for the preceding fiscal year or the number of children counted under that section in excess of 20 per centum of the total number of children aged five to seventeen, inclusive, in the school district of local educational agencies in such county for that preceding fiscal year, whichever is greater, and

[(B) the quotient resulting from the division of the amount determined for those agencies under section 111(a)(2) of this title for the fiscal year for which the determination is being made divided by the total number of children counted under section 111(c) for that agency for the preceding fiscal year.

[(3) The amounts of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount appropriated under subsection (d) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

[(4) For the purposes of this section, the Commissioner shall determine the number of children counted under section 11(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the entitlement for such county is determined under section 111.

[(5) Funds allocated to counties under this part shall be allocated by the State educational agency, pursuant to regulations established by the Commissioner, among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of children aged five to seventeen, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of this title) as determined on the basis of the available data which such State educational agency determines best to reflect the current distribution in the county of children aged five to seventeen, inclusive, from low-income families, except that in determining the number of such children in any local educational agency in which less than 20 per centum of the children are from low-income families, each such child shall be counted as a fraction in which the numerator is the percentage of low-income children in the school district of that agency and the denominator is 20.

[(c) PAYMENTS; USE OF FUNDS.—(1) The total amount to which the counties in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 191 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

[(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to the other requirements in subpart 3 of this part.

[(d) APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section $400,000,000 for fiscal year 1979, and such sums as may be necessary for each of the four succeeding fiscal years.

[Subpart 3—Program Requirements and Applications

[LOCAL PROGRAM APPLICATION

[SEC. 121. A local educational agency may receive a grant under this title for any fiscal year if it has on file with the State educational agency a current application, approved by the State educational agency, describing the programs and projects to be conducted with assistance provided under this title for a period of not to exceed three fiscal years, including the fiscal year for which the grant is to be made. Such an application may be amended at any time to describe changes in or additions to the activities originally set forth in the application. An application or amendment thereto shall be approved by the State educational agency upon its determination that the application provides for the use of such funds in a manner which meets the requirements of this subpart and is consistent with the assurances contained in the general application required by section 436 of the General Education Provisions Act, subject to such basic criteria as the Commissioner may prescribe.

[DESIGNATING SCHOOL ATTENDANCE AREAS

[SEC. 122. (a) GENERAL PROVISIONS.—(1) Except as provided in paragraph (2) and subsections (b), (c), (d), and (e) of this section, a local educational agency shall use funds received under this title in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as "eligible school attendance areas"), and where funds under this title are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest, according to relative degree of concentration of children from low-income families. A local educational agency may carry on a program or project assisted under this title in an eligible school attendance area only if it also carries on such program or project in all other eligible school attendance areas which are ranked higher under the first sentence. A local educational agency may designate any school attendance area in which at least 25 per centum of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this title and under a State program meeting the requirements of section 131(c) in that fiscal year in each school attendance area of that agency in which projects assisted under this title were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year. The same measure of low income, which shall be chosen by the local educational agency and which may be a composite of several indicators, shall be used with respect to all such areas, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

[(2)(A) Notwithstanding the provisions of paragraph (1), in the selection of eligible school attendance areas, a local educational agency may, subject to the requirements of subparagraph (B), choose to rank all its school attendance areas as provided in paragraph (1) and also rank all its school attendance areas according to educational deprivation, and then serve all its school attendance areas ranked according to paragraph (1) in the order of their ranking under such paragraph unless another school attendance area ranked according to education deprivation has a substantially greater number or a substantially greater percentage of educationally deprived children, in which case such school attendance area may be served before service is provided to other school attendance areas ranked pursuant to paragraph (1) which have a substantially smaller number or substantially smaller percentage of educationally deprived children. In the event that a local educational agency chooses to exercise the option provided under this paragraph, it shall not serve any more school attendance areas than the number identified pursuant to paragraph (1).

[(B) Any local educational agency desiring to use the alternative ranking system described in subparagraph (A) shall, with the consent of the district-wide parent advisory council of that agency, apply for permission to use such system to the State educational agency of the State wherein such local educational agency is located. Such application shall be approved by such State educational agency only if such State educational agency finds that the use of such alternative ranking system will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by such local educational agency. Whenever a school district exercises the option under this paragraph and actually serves one or more school attendance areas ranked under this paragraph, none of the areas so ranked but not served shall be considered to be eligible school attendance areas under this title.

[(b) Use of Enrollment Data in Certain Schools.—A local educational agency may use funds received under this title for educationally deprived children who are in a school of such agency which is not located in an eligibie school attendance area, but at which the proportion of children in actual average daily attendance who are from low-income families is substantially the same as the proportion of such children in such an area of that agency (hereinafter referred to as an "eligible school").

[(c) Continuation of Eligibility for Certain School Attendance Areas or Schools.—An eligible school attendance area or an eligible school may be designated a project area under subsection (a) or a project school under subsection (b) for a fiscal year, even though it does not qualify under such subsections for that fiscal year, if such area or school was so designated in either of the two preceding fiscal years.

[(d) Lower Ranked School Attendance Areas or Schools Having Substantially Greater Incidences of Educationally Deprived Children Than Higher Ranked Areas or Schools.—

The Commissioner shall issue regulations providing for an exception to subsection (a) permitting childern in lower ranked eligible school attendance areas or eligible schools having substantially greater incidences of educational deprivation than areas or schools ranked higher under subsections (a) or (b) to receive assistance before such children in higher ranked areas or schools receive such assistance.

[(e) Skipping Higher Ranked School Attendance Areas or Schools Receiving Services of the Same Nature and Scope From Non-Federal Sources.—The Commissioner shall issue regulations providing for an exception to subsection (a) or (b) permitting local educational agencies to skip higher ranked eligible school attendance areas or eligible schools receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this title. Whenever children residing in eligible areas and attending private elementary and secondary schools are ineligible for services of the same nature and scope from non-Federal sources, such children shall be selected for programs and projects under this title without regard to the provisions of this subsection. The number of children receiving services under this title who attend private elementary and secondary schools shall be determined in each local educational agency receiving assistance under this title without regard to non-Federal compensatory education funds which serve children in public elementary and secondary schools who are also eligible for assistance under this title. Children attending private elementary and secondary schools who receive assistance under this title shall be identified in accordance with this section and without regard to skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources.

[CHILDREN TO BE SERVED

[Sec. 123. (a) General Provisions.—Except as provided in subsections (b), (c), and (d) of this section and section 133, a local educational agency must use funds received under this title for educationally deprived children, identified in accordance with section 124(b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 122.

[(b) Continuation of Eligiblity for Educationally Deprived Children Who Are No Longer in Greatest Need of Assistance.—Whenever for a fiscal year, an educationally deprived child in a school attendance area or school satisfying the requirements of section 122, does not meet the requirement of subsection (a) requiring that he be in greatest need of special assistance, but did meet such requirement in any previous year, and is still educationally deprived, that child may participate in a program or project assisted under this title for the current fiscal year.

[(c) Continuation of Eligibility for Educationally Deprived Children Transferred to Ineligible Areas or Schools in the Same Year.—Educationally deprived children who begin participation in a program or project assisted under this title, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this title, may, if the local agency so determines, continue to participate in a program or project funded under this title for the duration of that same school year.

[(d) Skipping Children Determined To Be in Greatest Need of Assistance Who Are Receiving Services of the Same Nature and Scope From Non-Federal Sources.—The Commissioner shall issue regulations providing for an exemption to subsection (a) permitting local educational agencies, in providing services under this title, to skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this title.

[REQUIREMENTS FOR DESIGN AND IMPLEMENTATION OF PROGRAMS

[Sec. 124. (a) Purpose of Program.—A local educational agency may use funds received under this title only for programs and projects which are designed to meet the special educational needs of the children referred to in section 123. Such programs and projects may include the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as bonus for service in schools serving project areas, the training of teachers, and, where necessary, the construction of school facilities, and planning for such programs and projects.

[(b) Assessment of Educational Need.—A local educational agency may receive funds under this title only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas and to select those educationally deprived children who have the greatest need for special assistance; (2) identify the general instructional areas on which the program will focus; and (3) determine the special educational needs of participating children with specificity sufficient to facilitate development of high-quality programs and projects.

[(c) Planning.—A local educational agency may use funds received under this title for planning only if (1) the planning relates directly to programs or projects to be assisted under this title and has resulted, or is reasonably likely to result, in a program or project to be assisted under this title, and (2) such funds are needed because of the innovative nature of the programs or project or because such agency lacks the resources necessary to plan adequately for programs and projects to be assisted under this title. The amount a local educational agency may use for plans for any fiscal year may not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 111 or $2,000, whichever is greater.

[(d) Sufficient Size, Scope, and Quality.—A local educational agency may use funds received under this title only for programs and projects which are sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, and to this end such programs and projects must involve an expenditure of not less than $2,500, except that a State educational agency may reduce such $2,500 requirement for a local educational agency if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for such local educational agency to join effectively with other local educational agencies for the purpose of meeting the requirement.

[(e) EXPENDITURES RELATED TO RANKING OR PROJECT AREAS AND SCHOOLS.—A local educational agency may receive funds under this title only if such funds are allocated among project areas of schools for programs and projects assisted under this title on the basis of the number and needs of children to be served as determined in accordance with section 123.

[(f) COORDINATION WITH OTHER PROGRAMS.—(1) A local educational agency may receive funds under this title only if it demonstrates that, in the development of its application, it has taken into consideration benefits and service which are or may be available through other public and private agencies, organizations, or individuals. The local educational agency shall also demonstrate that in order to avoid duplication of effort and to ensure that all programs and projects complement each other, it has considering suggestions and offers of assistance made by other agencies which may aid in carrying out or making more effective the program or project for which the application is made.

[(2) A local educational agency may use funds received under this title for health, social, or nutrition services for participating children under this title only if such agency has requested from the State educational agency assistance in locating and utilizing other Federal and State programs to provide such services.

[(g) EVALUATIONS.—A local educational agency may receive funds under this title only if—

[(1) effective procedures are adopted for evaluating, in accordance with the evaluation schedule promulgated by the Commissioner under section 183(b), the effectiveness of the programs assisted under this title in meeting the special educational needs of educationally deprived children;

[(2) such evaluations will include, during each three-year period, the collection and analysis of data relating to the degree to which programs assisted under this title have achieved their goals, including the requirements of section 130, and will also include objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer; and

[(3) the evaluation will address the purposes of the programs, including the requirements of section 130, and the results of the evaluations will be utilized in planning for and improving projects and activities carried out under this title in subsequent years.

[(h) INFORMATION DISSEMINATION.—A local educational agency may receive funds under this title only if effective procedures are in existence for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

[(i) TEACHER AND SCHOOL BOARD PARTICIPATING.—A local educational agency may receive funds under this title only if teachers in schools participating in programs assisted under this title, and school boards or comparable authority responsible to the public with jurisdiction over the schools, have been involved in planning for those programs and will be involved in the evaluation thereof.

[(j) PARENT PARTICIPATION.—A local educational agency may receive funds under this title only if parents of children participating in programs assisted under this title are permitted to participate in the establishment of such programs and are informed of, and permitted to make recommendations with respect to, the instructional goals of the program and the progress of their children in such program, and such parents are afforded opportunities to assist their children in achieving such goals.

[(k) SUSTAINING GAINS.—A local educational agency may receive funds under this title only if, in developing programs to be assisted under this title, the local educational agency will give due consideration to the inclusion of components designed to sustain the achievements of children beyond the school year in which the program is conducted, through such means as summer programs and intermediate and secondary level programs.

[(l) TRAINING OF EDUCATION AIDES.—A local educational agency may receive funds under this title for programs and projects involving education aides, including volunteers, only if it has in effect well-developed plans providing for coordinated programs of training in which education aides, including volunteers, and the professional staff whom they are assisting will participate together.

[(m) CONTROL OF FUNDS.—A local educational agency may receive funds under this title only if control of such funds, and title to property derived therefrom, is in a public agency for the uses and purposes provided in this title, and only if a public agency will administer such funds and property.

[(n) CONSTRUCTION.—A local educational agency may use funds received under this title for projects for construction of school facilities only if—

[(1) the project is not inconsistent with overall State plans for the construction of school facilities and the requirements of section 433 of the General Education Provision Act are complied with on all such projects.

[(2) in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to ensure that facilities constructed with the use of Federal funds under this title are, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by, handicapped persons, and

[(3) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not representing more than 1 per centum of the cost of the project).

[(o) JOINTLY OPERATED PROGRAMS.—Two or more local educational agencies may, at their option, enter into an agreement for carrying out jointly operated programs and projects assisted under this title.

[PARENTAL INVOLVEMENT

[SEC. 125. (a) ESTABLISHMENT OF ADVISORY COUNCILS.—(1) A local educational agency may receive funds under this title only if it establishes an advisory council for its entire school district which—

[(A) has a majority of members who are parents of children to be served by projects assisted under this title, who shall either be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

[(B) includes such additional members as may be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

[(C) includes representatives of children and schools eligible to be served by, but not currently participating in, programs assisted with funds provided under this title, who shall be elected by the parents in such areas; and

[(D) is established in accordance with regulations to be issued by the Commissioner which provide alternative models to carry out subparagraphs (A) through (C) of this paragraph.

[(2)(A) A local educational agency may receive funds under this title only if it establishes an advisory council for each project area or project school, except as provided in subparagraph (B), which—

[(i) has a majority of members who are parents of children to be served by programs assisted under this title; and

[(ii) is composed of members elected by the parents in each project area or project school.

[(B) In the case of any project area or project school in which not more than one full-time equivalent staff member is paid with funds provided under this title, and in which not more than forty students participate in such programs, the requirements of subparagraph (A) shall be waived.

[(C) In the case of any project area or project school in which 75 or more students are served by programs assisted by funds provided under this title, each such project area or project school advisory council, in addition to meeting the requirements of subparagraph (A), shall—

[(i) be composed of not less than 8 members, who shall serve for terms of two years, after which time they may be re-elected;

[(ii) elect officers of the council after it has been fully constituted; and

[(iii) meet a sufficient number of times per year, according to a schedule and at locations to be determined by such council.

[(3) Any individual who is a teacher at a school serving a project area or is a parent of a child in an eligible school attendance area or attending an eligible school shall be eligible to be elected as a member of the district-wide advisory councils established pursuant to paragraph (1), but nothing in this sentence shall preclude the eligibility of other individuals who are residents in that district. No individual who is a teacher at a project school or a school serving a project area shall be ineligible to be elected as a member of a district-wide or project area or school advisory council on the basis of residency outside such area or district.

[(b) Responsibilities of Advisory Councils.—Each local educational agency shall give each Advisory council which it establishes under subsection (a) responsibility for advising it in planning for, and implementation and evaluation of, its programs and projects assisted under this title.

[(c) Access to Information.—(1) Each local educational agency shall provide without charge to each advisory council established by such an agency under subsection (a) of this section, and, upon request, to each member of such advisory council—

[(A) a copy of the text of this title.

[(B) a copy of any Federal regulations and guidelines issued under such title; and

[(C) a copy of appropriate State regulations and guidelines associated with this title.

[(2) Each State educational agency shall provide a copy of any report resulting from State or Federal auditing, monitoring, or evaluation activities in any district to the parent advisory council established pursuant to subsection (a)(1) in such district.

[(d) Training Programs.—Each local educational application for funding under this title shall describe a program for training the members of advisory councils established pursuant to subsection (a) to carry out their responsibilities as described in subsection (b). Such training program—

[(1) shall be planned in full consultation with the members of such advisory councils;

[(2) shall provide each member of each such council with appropriate training materials; and

[(3) may permit the use of funds under this title for expenses associated with such training, including expenses associated with the attendance of such members at training sessions.

[(e) Workshops on Parental Involvement.—For each fiscal year for which payments are made to State educational agencies under this title, the Commissioner shall sponsor workshops in the several regions of the United States which shall be designed to assist local educational agencies to work with and provide training to parent advisory councils established under subsection (a) of this section and to facilitate parental involvement in the programs conducted under this title. The workshops shall be planned and conducted in consultation with members of parent advisory councils in the region served by the workshop.

[(f) Assessment of Parental Involvement and Training.—The National Institute of Education shall assess the effectiveness of (1) various forms of parental involvement, including parent advisory councils, on school governance, student achievement, and other purposes of this title, and (2) various methods of training the members of parent advisory councils, and shall report the results of such assessments to the Congress and the public.

[(g) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums as may be necessary to carry out the provisions of subsections (e) and (f) of this section.

[FUNDS ALLOCATION

[SEC. 126. (a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this title for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

[(2) The Commissioner may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this paragraph is granted, the Commissioner shall reduce the amount of Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by paragraph (1). No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under paragraph (1), for years subsequent to the year covered by such waiver. Such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

[(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

[(b) USE OF FUNDS LIMITED TO EXCESS COSTS.—Subject to the provisions of section 131, a local educational agency may use funds received under this title only for the excess costs of programs and projects referred to in section 124(a). As used in this subsection, the term "excess costs" means costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects.

[(c) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 131(b) for the education of pupils participating in programs and projects assisted under this title, and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

[(d) FEDERAL FUNDS REQUIRED TO SUPPLEMENT, NOT SUPPLANT NON-FEDERAL FUNDS FOR CERTAIN SPECIAL STATE AND LOCAL PRO-

GRAMS.—(1) Subject to section 132, a local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for each of the special programs described in subsection (b) of section 131 for the education of educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools and in no case, as to supplant such funds from non-Federal sources.

[(2) It shall not be considered a violation of this subsection for a local educational agency, in carrying out a special program described in subsection (b) of section 131, to take into consideration funds made available under this title, and to coordinate such special programs with programs using such Federal funds, provided that educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools, receive at least the same level of such special State and local funds that would have been made available to such children in the absence of funds under this title.

[(3) For purposes of this subsection, the level of funds that, in the absence of funds under this title would have been made available to such children shall be determined by reference to a plan for distributing such special funds. Such plan shall be based on objective criteria of need that do not discriminate against educationally deprived children, in the aggregate in eligible school attendance areas or attending eligible schools. The objective criteria chosen by the local educational agency shall prescribe, with particularity, the children as well as the schools, grade-spans, or school attendance areas eligible for assistance and the method for selecting the particular children who will receive assistance under such special State or local program and the schools or grade-spans which such children attend or the school attendance areas in which such children reside. The criteria for selecting children, schools, grade-spans, and school attendance areas for participation shall be either educational need, a reasonable proxy for educational need, level of poverty, or a combination of such factors. Educationally deprived children residing in eligible school attendance areas or attending eligible schools, satisfying such object criteria, must receive assistance under either this title or under such special State or local program before any child who does not satisfy such criteria receives such assistance.

[(e) COMPARABILITY OF SERVICES.—Subject to the provisions of section 131, a local educational agency may receive funds under this title only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title. Where, under regulations of the Commissioner, all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable, in accordance with regulations of the Commissioner, in each project area. Each local educational agency shall report on or before July 1 of each year with respect to its compliance with this subsection, except for local educational agencies which were not required to report upon the date of enactment of the Education Amendments of 1978, unless the Commissioner otherwise provides by regulation.

[ACCOUNTABILITY

[SEC. 127. (a) RECORDKEEPING.—Each local educational agency which receives funds under this title shall keep such records and afford such access thereto as the State educational agency shall prescribe, including records which fully disclose the amount and disposition of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of the portion of the cost of the program or project supplied by other sources, and such other records as will facilitate an effective audit. Whenever a local educational agency carries on a single compensatory education program paid for out of funds under this title as well as State or local funds which meets all of the requirements of this title and whenever, under section 131, the local educational agency excludes expenditures from State and local sources in determining compliance with section 126 (b) and (e), the State educational agency need not require the Federal funds to be accounted for separately. In any proceeding, State or Federal, for the recoupment of any such funds which were misspent or misapplied, the percentage of the funds so misspent or misapplied which shall be deemed to be Federal funds shall be equal to the percentage of the funds used, or intended for use, for the program or project which were Federal funds.

[(b) REPORTING.—Each local educational agency which receives funds under this title shall make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs and projects assisted under this title.

[(c) ACCESS TO INFORMATION.—Each local educational agency which applies for or receives funds under this title shall make the application and all pertinent documents related thereto available to parents, teachers, and other members of the general public.

[COMPLAINT RESOLUTION

[SEC. 128. Each local educational agency which receives funds under this title shall develop and implement, in accordance with criteria prescribed by the Commissioner, written procedures for the resolution of complaints made to that agency by parent advisory councils, parents, teacher, or other concerned organizations or individuals concerning violations of this title, or of applicable provisions of the General Education Provisions Act in connection with programs under this title. Such procedures shall—

[(1) provide specific time limits for investigation and resolution of complaints, which shall not exceed thirty days unless a longer period of time is provided by the state educational agency due to exceptional circumstances in accordance with regulations established by the Commissioner;

[(2) provide an opportunity for the complainant or the complainant's representative, or both, to present evidence, including an opportunity to question parties involved;

[(3) provide the right to appeal the final resolution of the local educational agency to the State educational agency within thirty days after receipt of the written decision; and

[(4) provide for the dissemination of information concerning these procedures to interested parties, including all district and school parent advisory councils.

[INDIVIDUALIZED PLANS

[SEC. 129. It is the intent of the Congress to encourage, whenever feasible, the development for each educationally deprived child participating in a program under this title of an individualized educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, the teacher, a parent or guardian of the child, and, when appropriate, the child.

[PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

[SEC. 130. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of sections 122 and 123, and subsections (a), (b), (d), and (m) of section 124, and subsection (c) of section 126. Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

[(b) BY-PASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

[(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

[(3)(A) When the Commissioner arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this title.

[(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

[(C) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

[(4)(A) The Commissioner shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why such action should not be taken.

[(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[Subpart 3—Program Requirements and Applications

[EXCLUSIONS FROM EXCESS COSTS AND COMPARABILITY PROVISIONS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS

[SEC. 131. (a) IN GENERAL.—For the purpose of determining compliance with the requirement of section 126(b) (relating to use of funds only for excess costs of programs and projects) and of section 126(e) (relating to comparability of services), a local educational agency may, at its option, exclude State and local funds expended for carrying out a special program or a State phase-in program.

[(b) SPECIAL PROGRAM AND STATE PHASE-IN PROGRAM DEFINED.—For purposes of this section—

[(1) a special program is limited to—

[(A) a State compensatory education program which the Commissioner has determined in advance under subsection (e) meets the requirements of subsection (c) and which the State educational agency determines is being implemented by the local educational agency in accordance with subsection (c);

[(B) a State compensatory education program which the Commissioner has determined in advance under subsection (e) does not satisfy the requirements of subsection (c), but which he has determined permits the local educational agency, at its option, to use such special State funds in accordance with subsection (c), provided that the local educational agency designs a program which the State educational agency determines in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines will be implemented by the local educational agencies in accordance with subsection (c); or

[(C) a local compensatory education program which the State educational agency has determined in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines is being implemented in accordance with subsection (c); and

[(D) a bilingual program for children of limited English proficiency or special educational program for handicapped children or children with specific learning disabilities; and

[(2) a State phase-in program is a program which the Commissioner has determined in advance under subsection (e) meets the requirements of subsection (d) and which the State educational agency determines will be implemented by local educational agencies in accordance with subsection (d).

[(c) STATE AND LOCAL COMPENSATORY EDUCATION PROGRAMS SIMILAR TO TITLE I PROGRAMS.—A State or local program meets the requirements of this subsection if it is similar to programs assisted under this part. The Commissioner shall consider a State or local program to be similar to programs assisted under this part if—

[(1) all children participating in the program are educationally deprived.

[(2) the program is based on performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives.

[(3) the program provides supplementary services designed to meet the special educational needs of the children who are participating.

[(4) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of clauses (1), (2), and (3) of this subsection, and

[(5) the State educational agency monitors performance under the program to assure that the requirements of clauses (1), (2), (3), and (4) of this subsection are met.

[(d) Certain State Phase-In Programs.—A State education program which is being phased into full operation meets the requirements of this subsection if the Commissioner is satisfied that—

[(1) the program is authorized and governed specifically by the provisions of State law;

[(2) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

[(3) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

[(4) parents and school staff are involved in comprehensive planning, implementation, and evaluataon of the program;

[(5) the program will benefit all children in a particular school or grade-span within a school;

[(6) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

[(7) the phase-in period of the program is not more than six school years, except that the phase-in period for a program commenced prior to the date of enactment of the Education Amendments of 1978 shall be deemed to begin on the date of enactment of such Amendments;

[(8) at all times during such phase-in period at least 50 per centum of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

[(9) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

[(10) the local educational agency is separately accountable, for purposes of compliance with paragraphs (1) through (6), (8), and (9) of this subsection, to the State educational agency for any funds expended for such program; and

[(11) the local educational agencies carrying out the program are complying with paragraphs (1) through (6), (8) and (9) and the State educational agency is complying with paragraph (10).

[(e) Advance Determinations by the Commissioner.—The Commissioner shall make an advance determination of whether or not a State Program described in subsection (b)(1) (A) or (B) or (b)(2) meets the requirements of subsection (c) or meets the requirements of subsection (d). The Commissioner shall require each State educational agency to submit to him the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for him to make such an advance determination. The Commissioner's determination shall be in writing and shall include the reasons for his determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Commissioner.

[(f) ADVANCE DETERMINATION BY THE STATE EDUCATIONAL AGENCY.—The State educational agency shall make an advance determination of whether or not a program described in subsection (b)(1)(C) meets the requirements of subsection (c). The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

[LIMITED EXEMPTION TO SUPPLEMENT, NOT SUPPLANT, REQUIREMENT WHERE CERTAIN SPECIAL PROGRAMS FOR EDUCATIONALLY DEPRIVED CHILDREN ARE FULLY FUNDED

[SEC. 132. Whenever for a fiscal year—

[(1) a local educational agency provides special State and local funds for programs for educationally deprived children which qualify under clause (A), (B), or (C) of section 131(b)(1) for an exception from the comparability and excess costs provisions under such section 131, and

[(2) the amount of such special State and local funds provided in eligible school attendance areas and for eligible schools when added to the Federal funds provided for programs under this subpart equals the amount such agency is eligible to receive for such fiscal year under section 111(a)(2) (without regard to adjustments under section 193),

then the local educational agency may, without being considered in violation of section 126(d), utilize additional State and local funds for special programs and projects which are solely for educationally deprived children residing in nonproject areas or attending nonproject schools, including areas and schools ineligible for assistance under this title. The exemption in the preceding sentence does not apply to the extent the level of such special State and local funds, per child participating in such programs residing in ineligible school attendance areas or attending ineligible schools, exceeds the amount of funds, per child participating in programs in project areas, provided to the agency under this part plus the amount of such special State or local funds provided for use in such areas.

[SCHOOLWIDE PROJECTS

[SEC. 133. (a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this title and in which not less than 75 per centum of the children are from low-income families (in accordance with criteria established by the Commissioner), the local educational agency may carry out a project under this title to upgrade the entire educational program in that school if the requirements of subsection (b) are met.

[(b) Designation of Schools.—A school may be designated for a schoolwide project under subsection (a) if—

[(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency providing for—

[(A) a comprehensive assessment of the educational needs of all students in the school, in particular the special needs of educationally deprived children, and

[(B) an instructional program designed to meet the special needs of all students in the school;

[(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

[(3) the plan provides for consultation among those individuals as to the educational progress of all students;

[(4) the plan has been approved by the advisory council for that school established under section 125;

[(5) appropriate training is provided to teachers and teacher aides to enable them effectively to carry out the plan;

[(6) the plan includes procedures for evaluation involving the participation of the individuals listed in paragraph (2), and opportunities for periodic improvements in the plan based on the results of those evaluations;

[(7)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools;

[(B) the local educational agency makes special supplementary State and local funds available for the children in schools described in subsection (a) in amounts which, per child served who is not educationally deprived, equal or exceed the amount of Federal funds provided under this part which, per educationally deprived child served, are made available for children in such schools; and

[(C) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year.

[(c) Approval of School; Operation of Project.—(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

[(2) For any school which has such a plan approved, the local educational agency—

[(A) shall, in order to carry out the plan, be relieved of any requirements under this title with respect to the commingling of funds provided under this title with funds available for regular programs;

[(B) shall not be required to identify particular children as being eligible to participate in programs assisted under this title; and

[(C) shall not be required to demonstrate that services provided with funds under this title are supplementary to the services regularly provided in the school.

[NONINSTRUCTIONAL DUTIES

[Sec. 134. Notwithstanding any provision of subpart 3 of this part, personnel paid entirely by funds made available under this title may be assigned to certain limited, rotating, supervisory duties not related to classroom instruction, the benefits of which are not limited to participating children under this title. Such duties may include only those to which similarly situated personnel not hired with funds made available under the title are assigned at the same school site, and for which such similarly situated personnel are paid, and may not exceed the same proportion of total time as similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less.

[PART B—PROGRAMS OPERATED BY STATE AGENCIES

[Subpart 1—Programs for Migratory Children

[GRANTS—ENTITLEMENT AND AMOUNT

[Sec. 141. (a) Entitlement.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen which meet the requirements of section 142.

[(b) Amount of Grant.—(1) Except as provided in sections 156 and 157, the total grants which shall be made available for use in any State (other than Puerto Rico) for this subpart shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States of 120 per centum of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 142, the Commissioner shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Commissioner shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

[(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in Puerto Rico by the product of—

[(A) the percentage determined under the preceding sentence, and

[(B) 32 per centum of the average per pupil expenditure in the United States.

[PROGRAM REQUIREMENTS

[Sec. 142. (a) Requirements for Approval of Applications.—The Commissioner may approve an application submitted under section 141(a) only upon his determination—

[(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

[(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964 and under section 303 of the Comprehensive Employment and Training Act;

[(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 556 (other than subsection (b)(1)) and section 558 of the Education Consolidation and Improvement Act of 1981;

[(4) that, in planning and carrying out programs and projects at both the State and local educational agency level, there has been and will be appropriate consultation with parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a)); and

[(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this paragraph will not detract from the operation of programs and projects described in paragraph (1) of this subsection after considering funds available for this purpose.

[(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this section. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this section.

[(c) BY-PASS PROVISION.—If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

[COORDINATION OF MIGRANT EDUCATION ACTIVITIES

[SEC. 143. (a) ACTIVITIES AUTHORIZED.—The Commissioner is authorized to enter into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records and to carry out other activities, in consultation with the States, to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. For the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its reponsibilities under the contract during that preceding year. No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

[(b) AVAILABILITY OF FUNDS.—The Commissioner shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount which shall not be less than $6,000,000 nor more than 5 per centum of the amount so appropriated.

[Subpart 2—Programs for Handicapped Children

[AMOUNT AND ELIGIBILITY

[SEC. 146. (a) ELIGIBILITY FOR GRANT.—A state agency which is directly responsible for providing free public education for handicapped children (as that term is defined in section 602(1) of the Education of the Handicapped Act), shall be eligible to receive a grant under this subpart for any fiscal year.

[(b) AMOUNT OF GRANT.—(1) Except as provided in section 156 and 157, the grant which a State agency referred to in susection (a) (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per public expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such handicapped children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

[(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in Puerto Rico by the product of—

[(A) the percentage determined under the preceding sentence, and

[(B) 32 per centum of the average per pupil expenditure in the United States.

[(c) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In the case where a child described in subsection (a) leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 147.

[PROGRAM REQUIREMENTS

[SEC. 147. A State shall use the payments made under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of handicapped children. Such programs and projects shall be administered and carried out in a manner consistent with section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981. The State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of section 146 will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

[Subpart 3—Programs for Neglected and Delinquent Children

[AMOUNT AND ENTITLEMENT

[SEC. 151. (a) ENTITLEMENT TO GRANTS.—A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

[(b) AMOUNT OF GRANT.—(1) Except as provided in sections 156 and 157, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

[(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in Puerto Rico by the product of—

[(A) the percentage determined under the preceding sentence, and

[(B) 32 per centum of the average per pupil expenditure in the United States.

[PROGRAM REQUIREMENT

[SEC. 152. (a) USE OF PAYMENTS.—A State agenc shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children or in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981.

[(b) THREE-YEAR PROJECTS.—Where a State agency operates programs under this title in which children are likely to participate for more than one year, the State educational agency may approve the application for a grant under this subpart for a period of more than one year, but not to exceed three years.

[TRANSITION SERVICES

[SEC. 153. (a) GRANTS AUTHORIZED.—The Commissioner is authorized to make grants to State and local educational agencies to support projects to facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs. Grants under this section shall be used to provide special educational services for such children in schools other than State operated institutions.

[(b) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated for the purposes of this section for any fiscal year, not to exceed 5 per centum of the amount State agencies are entitled to receive under section 151 for that year.

[Subpart 4—General Provisions for State Operated Programs

[RESERVATION OF FUNDS FOR TERRITORIES

[SEC. 156. There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 per centum of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be alloted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

[MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

[SEC. 157. No State shall receive in any fiscal year prior to October 1, 1983, pursuant to subpart 1, 2, or 3 of this part an amount which is less than 85 per centum of the amount which that State received in the prior fiscal year pursuant to the comparable sections of this title as in effect immediately preceding the enactment of the Education Amendments of 1978 or the comparable subpart of this part, whichever was in effect for such prior fiscal year, and, for any fiscal year ending prior to October 1, 1982, no State shall receive, pursuant to subpart 1 of this part, an amount which is less than 100 per centum of the amount that State received in the prior fiscal year pursuant to the comparable section of this title as in effect immediately prior to the enactment of the Education Amendments of 1978 or under subpart 1 of this part, whichever was in effect for such prior fiscal year.

[PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

[Subpart 1—Applicability; State Applications

[APPLICABILITY

[SEC. 161. The provisions of this part (other than section 162 and subpart 3) shall apply in any fiscal year in which the provisions of section 510(b)(2) of this Act are not met.

[STATE APPLICATIONS

[SEC. 162. (a) SUBMISSION OF STATE APPLICATIONS.—Any State desiring to participate under this title (except with respect to the program provided for in subpart 1 of part B relating to migratory children) shall have on file with the Commissioner an application submitted by its State educational agency.

[(b) CONTENTS OF STATE APPLICATIONS.—Each application required by subsection (a) shall contain (1) satisfactory assurances that the State educational agency will comply with the requirements of this part, and (2) such information as the Commissioner may consider necessary for him to make the findings required by section 182.

[Subpart 2—Duties Imposed on State Educational Agencies

[APPLICATION APPROVAL

[SEC. 164. (a) REQUIREMENTS FOR APPROVAL.—(1) A State educational agency shall approve an application of a local educational agency or a State agency under this title if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this title, the General Education Provisions Act, and the rules, regulations, procedures, guidelines, criteria, or other requirements adopted by such agency which pertain to programs and projects assisted under this title, and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this title which were misused, and is not out of compliance with a compliance agreement under section 169(c).

[(2) A State educational agency may approve an application under paragraph (1), only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant agency's compliance with this title, and (D) evaluations conducted under section 124(g).

[(b) PAYMENTS.—Except as provided in section 194, a State educational agency may make payments from funds received under this title only for programs and projects which it has approved under subsection (a).

[(c) OPPORTUNITY FOR HEARING.—A State educational agency shall not finally disapprove in whole or in part any application for funds under part A or under subpart 2 or subpart 3 of part B without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing.

[STATE RULEMAKING

[SEC. 165. Nothing in this title shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects assisted under this title if they do not conflict with the provisions of this title, with regulations promulgated by the Commissioner implementing this title, or with other applicable Federal law. The Commissioner shall encourage a State educational agency, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

[TECHNICAL ASSISTANCE AND DISSEMINATION OF INFORMATION

[SEC. 166. Each State educational agency shall carry on a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this title. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from educational research, (2) information about successful compensatory education projects, (3) information about other Federal and State funded programs which may provide needed health, social, and nutrition services to eligible participating children under this title, and (4) such other information as will assist local educational agencies and State agencies in planning, developing, implementing, and evaluating programs assisted under this title.

[MONITORING

[SEC. 167. Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner and with the State monitoring and enforcement plan submitted under section 171, for monitoring the effectiveness of programs and projects assisted under this title. Such standards shall

(1) describe the purpose and scope of monitoring; (2) specify the frequency of onsite visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate follow-up by the State educational agency; (4) specify the methods for making monitoring reports available to parents, State and local auditors, and other persons, and (5) specify the methods for insuring that non-compliant practices are corrected.

[COMPLAINT RESOLUTION

[SEC. 168. Each State educational agency shall adopt written procedures for receiving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this title or applicable provisions of the General Education Provisions Act in connection with programs assisted under this title, and for conducting onsite investigations of such complaints which the State educational agency deems necessary. Such procedures shall include—

[(1) specific time limits for resolving the complaint or completing the review and, if necessary, the independent onsite investigation, which shall not exceed sixty days unless exceptional circumstances exist;

[(2) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses;

[(3) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and

[(4) dissemination, free of charge, of information concerning these procedures to interested parties, including all district and school advisory councils.

[WITHHOLDING OF PAYMENTS

[SEC. 169. (a) WITHHOLDING.—Whenever a State educational agency, after reasonable notice and opportunity for a hearing (consistent with the requirements of section 434(b) of the General Education Provisions Act) to any local educational agency or State agency, before an impartial decisionmaker, finds that there has been a failure to comply substantially with any provision of subpart 3 of part A or subpart 2 or 3 of part B, the State educational agency shall notify such agency that further payments, in whole or in part, will not be made to it under this title until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under this title, except as may be provided in a compliance agreement entered into under subsection (c). Pending the outcome of any proceeding under this subsection, the State educational agency may suspend, in whole or in part, payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

[(b) NOTICE TO PUBLIC OF STATE WITHHOLDING.—Upon submission to a local educational agency or a State agency of a notice that the State educatioal agency pursuant to subsection (a) is withholding payment, the State educational agency shall inform the district advisory council (if any) and shall take such additional action as may be necessary to bring the State action to the attention of the public.

[(c) COMPLIANCE AGREEMENTS.—A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) while there is in effect a compliance agreement with the local educational agency or State agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the local educational agency or State agency fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement. For purposes of this subsection, the term "compliance agreement" means an agreement which—

[(1) sets forth the terms and conditions to which the local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education Provisions Act and regulations promulgated thereunder, and with the applicable rules, regulations, procedures, guidelines, criteria or other requirements adopted by the State educational agency;

[(2) addresses all the matters that formed the basis for the initiation of the withholding action by the State educational agency; and

[(3) may consist of a series of agreements that in the aggregate dispose of all such matters.

Within fifteen days after the execution of any compliance agreement, the State educational agency shall send a copy thereof to the district advisory council affected, and to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

[(d) REVIEW BY THE COMMISSIONER.—A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (a) to the Commissioner.

[AUDITS AND AUDIT RESOLUTION

[SEC. 170. (a) AUDITING.—Each State shall make provision for audits of the expenditure of funds received under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency considering the nature, size, and complexity of the activity.

[(b) AUDIT RESOLUTION.—Each State educational agency shall have in effect written procedures meeting minimum standards established by the Commissioner, to assure timely and appropriate resolutions of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and an audit appeals process. Whenever under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made in either a single payment or in installments over a period not to exceed three years.

[(c) REQUIREMENT FOR REPAYMENT.—A local educational agency or State agency shall repay from non-Federal sources or from Federal funds, no accountability for which is required to the Federal Government, the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied.

[(d) REVIEW BY THE COMMISSIONER.—A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (b) to the Commissioner.

[(e) FAILURE TO REPAY.—If, following an affirmation by the Commissioner of a final determination of a State educational agency under subsection (b) or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or State agency refuses to repay from non-Federal sources, or from Federal funds no accountability for which is required to the Federal Government, funds which have been misspent or misapplied under this title, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action.

[Subpart 3—Responsibilities of State Educational Agencies to Commissioner

[STATE MONITORING AND ENFORCEMENT PLANS

[SEC. 171. (a) STATE PLAN.—Each State educational agency participating in programs under this title shall submit, at such times (at least once every three years) and in such detail as the Commissioner shall prescribe, a State monitoring and enforcement plan. Such plan shall set forth—

[(1) a program of regular visits by State educational agency personnel to projects assisted under this title;

[(2) the matters to be reviewed during such visits;

[(3) procedures for verifying information provided by local educational agencies and State agencies, including the use of other information available to the State to cross-check that information;

[(4) procedures for regular audits of local educational agency and State agency expenditures under this title, and procedures for the recovery of any expenditure determined not to be allowable under this title;

[(5) procedures for resolving each complaint received by the State relating to programs assisted under this title, including complaints referred to the State by the Commissioner and complaints by representatives of children enrolled in private schools that those children are not receiving the services to which they are entitled under this title; and

[(6) a description of the means by which the State educational agency has determined, and will continue to determine, the compliance by local educational agencies with the requirements of section 130 relating to the equitable provision of services to children enrolled in private schools.

[(b) REPORT.—Each plan submitted by a State educational agency under this section shall include a report, in such form as the Commissioner shall prescribe, of the activities undertaken by the State in the years since the previous plan was filed to carry out its monitoring and enforcement efforts under this title.

[REPORTING

[SEC. 172. Each State educational agency shall make to the Commissioner (1) periodic reports (including the results of objective measurements required by section 124(g) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (2) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year).

[RECORDKEEPING, FISCAL CONTROL, AND FUND ACCOUNTING

[SEC. 173. Each State educational agency which receives funds under this title shall use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, funds made available under this title, and keep such records, and afford access thereto, as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such agency of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of that portion of the cost of the program and project supplied by other sources, and such other records as will facilitate an effective audit.

[PROHIBITION OF CONSIDERATION OF FEDERAL AID IN DETERMINING STATE AID

[SEC. 174. No State shall take into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

[PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS

[APPLICABILITY

[SEC. 181. In addition to other requirements contained in this part, the requirements of the General Education Provisions Act which relate to Federal administration of elementary and secondary education programs shall apply to programs carried out under this title.

[APPROVAL OF APPLICATIONS

[SEC. 182. (a) REQUIREMENT FOR APPROVAL.—The Commissioner shall not approve an application under section 162 until he has made specific findings, in writing, that (1) the application and the State monitoring and enforcement plan required under section 171 comply with this title, and (2) that he is satisfied that the assurances in such application and the assurances contained in its general application under section 435 of the General Education Provisions Act (where applicable) will be carried out.

[(b) HEARINGS.—The Commissioner shall, in accordance with the procedures set forth in section 453 of the General Education Provisions Act, not finally disapprove an application under section 142 or section 162 except after notice and opportunity for a hearing to the State educational agency.

[PROGRAM EVALUATION

[SEC. 183. (a) INDEPENDENT EVALUATIONS.—The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs and projects.

[(b) EVALUATION STANDARDS AND SCHEDULE.—The Commissioner shall (1) develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title, and (2) develop, in consultation with State educational agencies and representatives of local educational agencies, a schedule for conducting evaluations under section 124(g) designed to ensure that evaluations are conducted in representative samples of the local educational agencies in any State each year. Such standards will be developed only after widespread consultation and hearings with practicing State and local agency evaluators, and the Commissioner's standards will reflect the input of these groups.

[(c) JOINTLY SPONSORED STUDIES.—The Commissioner shall consult with State and local educational agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

[(d) EVALUATION MODELS.—The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 172, which shall include uniform procedures and creteria to be utilized by local educational agencies and State agencies as well as by the State educational agency in the evaluation of such programs. In developing evaluation design models the Commissioner shall consult with State and local evaluators experienced in conducting such evaluations.

[(e) TECHNICAL ASSISTANCE.—The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies and State agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

[(f) SPECIFICATION OF OBJECTIVE CRITERIA.—The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

[(g) REPORT TO CONGRESS.—The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning the results of evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with other related findings and evaluations and his recommendations with respect to legislation.

[(h) INFORMATION DISSEMINATION.—The Commissioner shall also develop a system for the gathering and dissemination of the results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State agencies and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

[(i) MAXIMUM EXPENDITURES.—The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such programs. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States, local educational agencies, and State agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

[COMPLAINT RESOLUTION

[SEC. 184. The Commissioner shall develop and implement written procedures for receiving and resolving appeals from final resolutions of State educational agencies with respect to complaints concerning violations of this title or of applicable provisions of the General Education Provisions Act in connection with programs under this title, for receiving such complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals, and for conducting independent onsite investigations of complaints if the Commissioner deems necessary. Such procedures shall include—

[(1) specific time limits for resolving the complaint or for completing the review and any necessary independent investigation, which shall not exceed sixty days unless exceptional circumstances exist;

[(2) an opportunity for the complainant, the complainant's representative, the local educational agency and the States educational agency to present evidence;

[(3) a requirement that the complainant, the complainant's representative, the local educational agency, the State educational agency, State agency, the district parent advisory council, and appropriate school-parent advisory councils shall be notified, in writing, within ten days after the resolution of the appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal; and

[(4) dissemination of information concerning the procedures.

[AUDITS AND AUDIT RESOLUTION

[SEC. 185. (a) AUDITING.—The Inspector General of the Department of Health, Education, and Welfare shall make provision for audits of grants made under this title to determine, at a minimum, the fiscal integrity of grants or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

[(b) AUDIT RESOLUTION AND REPAYMENT.—The Commissioner shall adopt procedures to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include timetables for each step of the audit resolution process and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, the Commissioner shall require the repayment of the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied. Such repayment may be made from funds derived from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government. Such repayments may be made in either a single payment or in installment payments over a period not to exceed three years.

[WITHHOLDING OF PAYMENTS

[SEC. 186. (a) WITHHOLDING.—Whenever the Commissioner, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 142 or 162, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall reduce or terminate further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under this title, or (2) payments by the State educational agency under this title shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies or State agencies shall be reduced, as the case may be. Where partial payments to a local educational agency are continued under this subsection, the expenditure of the payments shall be subject to such conditions as the Commissioner deems appropriate in light of the failure which led to the partial withholding. In the case of a substantial and continuing violation, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

[(b) Notice to Public of Commissioner Withholding.—Upon submission to a State of a notice under subsection (a) that the Commissioner is withholding payments, the Commissioner shall take such action as may be necessary to bring his action to the attention of the public within the State.

[(c) Compliance Agreement.—(1) The Commissioner may suspend the initiation or continuation of his withholding action under subsection (a) during any period there is in effect a compliance agreement with the State educational agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the State educational agency fails to comply with the terms agreed to, such an agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the Commissioner shall take into account any partial compliance by such agency under such agreement.

[(2) For the purpose of this subsection, the term "compliance agreement", means an agreement which—

[(A) sets forth the terms and conditions to which the State or local educational agency or State agency has agreed in order to comply with the requirements of this title of the General Education Provisions Act and regulations promulgated thereunder;

[(B) addresses all the matters that formed the basis for the initiation of the withholding action by the Commissioner; and

[(C) may consist of a series of agreements that in the aggregate dispose of all such matters.

[(3) In any case in which a State educational agency desires to enter into a compliance agreement, but alleges that full compliance with the requirements of this title is genuinely not feasible until a further date, the Commissioner shall hold a hearing at which that agency shall have the burden of demonstrating that immediate compliance is not feasible. The Commissioner shall provide an opportunity for parents, their representatives, and other interested parties to participate in that hearing. If the Commissioner determines, on the basis of all the evidence presented to him, that immediate compliance is genuinely not feasible, he shall make written findings to that effect entering into such a compliance agreement with that State educational agency. A compliance agreement under this subsection shall not be exempt from disclosure under any provision of section 552 of title 5, United States Code. Within fifteen days after the execution of any compliance agreement under this subsection, the Commissioner shall send a copy thereof to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

[POLICY MANUAL

[SEC. 187. (a) SCOPE AND PURPOSE.—The Commissioner shall, not later than six months after the publication of final regulations with respect to the amendments to this title made by the Education Amendments of 1978, prepare and distribute to State educational agencies, State agencies operating programs for neglected and delinquent and handicapped children, local educational agencies, and district-wide advisory councils, and shall make available to other interested individuals, organizations, and agencies, a policy manual for this title to—

[(1) assist such agencies in (A) preparing applications for program funds under this title, (B) meeting the applicable program requirements under this title, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

[(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

[(3) assist advisory councils established under section 125(a) in advising the local educational agencies in the planning for, and implementation and evaluation of, programs and projects under this title; and

[(4) insure that officers and employees of the Department of Health, Education, and Welfare, including, but not limited to officers and employees of the Commissioner and officers and employees of such Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

[(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried on under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available, the manual shall include (but not be limited to)—

[(1) a statement of the requirements applicable to the programs carried on under this title including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

[(2) an explanation of the purpose of each requirement, including appropriate references to legislative history;

[(3) an explanation of the interrelationships between the applicable requirements;

[(4) a statement of the procedures to be followed by the Commissioner and the Secretary with respect to proper and efficient performance of the their administrative responsibilities, including but not limited to (A) approving State applications or State plans, (B) distributing grants to appropriate agencies, (C) resolving problems discovered during monitoring visits, (D) resolving financial exceptions disclosed during audits, (E) collecting outstanding claims arising out of activities under this title, (F) resolving complaints, (G) responding to requests for advisory opinions interpreting and applying standards contained in applicable statutes and regulations to the public, (H) identifying and publicizing exemplary programs, and (I) making public audit determinations of the Commissioner or of any officer or panel authorized by the Commissioner to make such determinations;

[(5) summaries of (A) advisory opinions referred to in paragraph (4)(B) of this section and (B) final audit determinations referred to in paragraph (4)(I), including examples of actual applications of the legal requirements of applicable statues and regulations;

[(6) model forms and instructions developed by the Commissioner for use by State and local educatinal agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs operated by applicant agencies;

[(7) summaries of appropriate court decisions concerning programs under this title;

[(8) examples of methods of distributing State and local funds which do and do not satisfy the applicable requirements under this title; and

[(9) model forms, policies, and procedures developed by State educational agencies.

[ENFORCEMENT REPORT

[SEC. 188. The Commissioner shall, in conjunction with the report required by section 183(g), submit to the Congress a report concerning the enforcement of this title. The report submitted in 1980, 1982, and 1984 shall contain—

[(1) an analysis, for each State which has an application approved for that year under section 182, of the extent to which the assurances, policies, and procedures of that State submitted as part of that application satisfy the requirements of this title,

[(2) a description for each such State of the manner in which monitoring reports of the Commissioner were taken into consideration in the approval of such applications,

[(3) a description, with respect to appropriate States, of the manner in which unresolved audit and program monitoring findings were taken into consideration in the approval of such applications,

[(4) a description for each such State of the manner in which the annual evaluation report of that State was taken into consideration in the approval of such applications,

[(5) a summary of the findings of the Commissioner's on-site monitoring visits, of the actions taken by State educational agencies to correct problems identified in each report based on such visits, and of the number, type, and locatioin of problems which have been so identified but which have not been corrected as of the date of the submission of the annual enforcement report under this section, [(6) with respect to audits conducted under this title, (A) the number and type of audits conducted in the year preceding the date of submission of the report, (B) the identity of each State or local educational agency audited during that year, (C) the resolution status of each outstanding audit, including the dates on which each step of the resolution process with respect to such outstanding audit was completed, the schedule for compeltion of such process, the amount of the financial exceptions noted in final audit reports and inletters of final determination, and an explanation of any differences in such amounts as noted in draft audit reports, final audit reports, and letters of final determination, (D) the number and identity of any States which did not appeal to the audit hearing board for this title with respect to audits conducted during that year and the status of recoupment activities for each such State, (E) the number and identity of States which appealed to such board during that year and the status of each active appeal, (F) the number and identity of States which have completed such appeals during that year and the status of recoupment activities with respect thereto, (G) the number and type of any cases referred to the Attorney General during that year for collection of misspent funds, (H) the amount of any funds recovered during that year as a result of such audit resolution process, (I) an analysis of the type of violations identified in final audit reports, letters of final determination, and final decisions of the audit hearing board for this title and of the Commissioner on appeal from the decisions of such board, (J) a summary of audit follow-up actions conducted during that year for the purpose of determining that deficiencies which led to financial audit exceptions or audit findings of procedural noncompliance have been correctred, (K) a description of audits planned for the year succeeding the date of the submission of the report, and (L) recommendations for improvement of the audit resolution process, and

[(7) with respect to complaints made to the Commissioner concerning programs under this title during the year preceding the date of submission of the report under this section, the number and type of complaints, the identity of the State and local educational agencies, the action taken by the Commissioner to resolve the complaints, and the number and type of complaints which remain unresolved as of the date of such submission.

[Part E—Payments

[payment methods

[Sec. 191. The Commissioner shall, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

[AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES

[SEC. 192. From the funds paid to it pursuant to section 191 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this title and which has submitted an application approved pursuant to section 121 the amount for which such application has been approved, except that the amount shall not exceed the amount determined for that agency under this title.

[ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

[SEC. 193. (a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided in this title other than amounts appropriated for subpart 2 of part A are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part B shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sum available after the ap-
bring
the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 percentum of its allocation under subpart 1 of part A for the preceding fiscal year, shall be increased to such amount, the total of the increase thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustment as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 percentum of its allocation for such year.

[(b) ADDITIONAL FUNDS ALLOCATION.—In case additional funds become available for making payments under this title for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State and (2) State educational agencies referred to in subpart 1 of part B must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the

State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisons of section 111(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

[PAYMENTS FOR STATE ADMINISTRATION

[Sec. 194. (a) Except as provided in subsection (b), the Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title, except that the total of such payments in any fiscal year shall not exceed—

[(1) 1 per centum of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under this title; or

[(2) $225,000 or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

whichever is the greater, except that any amount paid by reason of clause (1) or (2) in excess of the limitation on such payments in effect prior to the effective date of the Education Amendments of 1978 shall be used exclusively for monitoring, audit resolution, enforcement, or similar compliance activities and shall supplement and not supplant funds otherwise available from non-Federal sources for such purposes.

[(b) The provisions of this section shall apply in any fiscal year in which the provisions of section 510(b)(2) are not met.

[Part F—General Provisions

[JUDICIAL REVIEW

[Sec. 195. (a) Filing Appeals.—If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under subpart 1 or part B or section 162 or with his final action under section 185 or 186, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(b) Basis of Review.—The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[NATIONAL ADVISORY COUNCIL

[SEC. 196. (a) COUNCIL ESTABLISHED.—There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

[(b) FUNCTIONS.—The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operations. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

[(c) REPORTS.—The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1984.

[LIMITATION ON GRANT TO PUERTO RICO

[SEC. 197. Notwithstanding the provisions of part A or of subpart 1, 2, or 3 of part B of this title, the amount paid to the Commonwealth of Puerto Rico under this title for any fiscal year shall not exceed 150 per centum of the amount received by Puerto Rico under this title in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which they are eligible under section 111.

[DEFINITIONS

[SEC. 198. (a) Except as otherwise provided, for purposes of this title:

[(1) The term "average daily attendance" means attendance determined in accordance with State law, except that notwithstanding any other provision of this title, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this title the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

[(2) The term "average per pupil expenditure" means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

[(3) The term "Commissioner" means the United States Commissioner of Education.

[(4) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

[(5) The term "country" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

[(6) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this title or parts B and C of title IV of this Act.

[(7) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

[(8) The term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

[(9) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

[(10) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such terms includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

[(11) The term "parent" includes a legal guardian or other person standing in loco parentis.

[(12) The term "project area" means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this title.

[(13) The term "school attendance area" means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

[(14) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public educational and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

[(15) The term "Secretary" means the Secretary of Health Education, and Welfare.

[(16) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

[(17) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.]

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TITLE IX—ADDITIONAL PROGRAMS

[PART C—WOMEN'S EDUCATIONAL EQUITY

[SHORT TITLE; PURPOSE

[SEC. 931. (a) This part may be cited as the "Women's Educational Equity Act of 1978".

[(b)(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

[(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

[(c) As used in this part, the term "Council" means the National Advisory Council on Women's Educational Programs.

[GRANT AND CONTRACT AUTHORITY

[SEC. 932. (a) The Secretary of Education is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

[(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

[(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

[(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

[(C) research and development activities designed to advance educational equity;

[(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to insure educational equity;

[(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

[(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

[(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 per centum of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

[(b) For each fiscal year, the Secretary of Education shall use $6,000,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $6,000,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

[APPLICATION; PARTICIPATION

[SEC. 933. (a) A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary of Education, at such time, in such form, and containing or accompanied by such information as the Secretary of Education may prescribe. Each such application shall—

[(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

[(2) describe a program for carrying out one or more of the purposes set forth in section 932(a) which holds promise of making a substantial contribution toward attaining such purposes; and

[(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application;

[(b) Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

[CHALLENGE GRANTS

[SEC. 934. (a) In addition to the authority of the Secretary under section 932, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 932(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

[(1) comprehensive plans for implementation of equity programs at every educational level;

[(2) innovative approaches to school-community partnerships;

[(3) new dissemination and replication strategies; and

[(4) other innovative approaches to achieving the purposes of this part.

[(b) For the purposes described in clauses (1) through (4) of subsection (a), the Secretary is authorized to make grants to public and private nonprofit agencies and to individuals.

[CRITERIA AND PRIORITIES

[SEC. 935. The Secretary of Education shall establish separate criteria and priorities for awards under sections 932(a)(1) and 932(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. Those criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

[NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

[SEC. 936. (a) There is established in the Department of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

[(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public and including (A) individuals who are experts in a wide range of issues of educational equity for women at all levels of education, including preschool, elementary and secondary education, higher education, and vocational and adult education; (B) individuals who are representative of and expert in the educational needs of racial and ethnic minority women, older women, and disabled women; (C) both women and men who have demonstrated commitment to and expertise in the purposes of this part; and (D) individuals who are representative of and expert in student financial assistance programs authorized under title IV of the Higher Education Act of 1965;

[(2) the staff Director of the Civil Rights Commission;

[(3) the Director of the Women's Bureau of the Department of Labor; and

[(4) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairperson from among the members described in paragraph (1).

[(b) The term of office of each member of the Council appointed under paragraph (1) of subsection (a) shall be three years, except that—

[(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

[(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

[(c) The Council shall—

[(1) advise the Secretary and the Congress on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

[(2) make recommendations to the Secretary of Education with respect to the selection of funding priorities and allocation of any funds pursuant to this part, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

[(3) advise all Federal agencies which have education programs concerning those aspects of the programs which relate to the educational needs and opportunities of women;

[(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

[(5) disseminate information concerning the activities of the Council under this part.

[(d) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

[REPORTS, EVALUATION, AND DISSEMINATION

[SEC. 937. (a) The Secretary of Education is directed, not later than September 30 of each of the years 1985 through 1989, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Secretary of Education, the Council shall oversee the evaluation of the program and projects assisted under this part and report on such evaluation in its annual report.

[(b) The Office of Women's Educational Equity shall evaluate and disseminate (at low cost) all materials and programs developed under this part.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 938. For the purpose of carrying out this part there are authorized to be appropriated $10,000,000 for fiscal year 1985, $12,000,000 for fiscal year 1986, $14,000,000 for fiscal year 1987,

$16,000,000 for fiscal year 1988, and $20,000,000 for fiscal year 1989.]

TITLE X—GENERAL PROVISIONS

* * * * * * *

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS

SEC. 1005. (a) * * *

* * * * * * *

(g)(1) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the succeeding fiscal years ending prior to October 1, [1989.] *1993.*

(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1989. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.

[(3) Notwithstanding paragraphs (1) and (2), the amount that is authorized to be appropriated to under this subsection for each of the fiscal years 1987, 1988, and 1989, is the amount appropriated for such purpose for fiscal year 1986.]

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EDUCATION FOR ECONOMIC SECURITY ACT

* * * * * * *

[TITLE II—EDUCATION FOR ECONOMIC SECURITY

[STATEMENT OF PURPOSE

[SEC. 201. It is the purpose of this title to make financial assistance available to State and local educational agencies, and to institutions of higher education, to improve the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages, and to increase the access of all students to such instruction, and thereby contribute to strengthening the economic security of the United States.

[DEFINITION

[SEC. 202. As used in this title, the term "junior or community college" means an institution of higher education—

[(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

[(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

[(3) that—

[(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

[(B) offers a two-year program designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

[PROGRAM AUTHORIZED

[SEC. 203. (a) The Secretary is authorized to make grants to States and to make discretionary grants, in accordance with the provisions of this title, for strengthening the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages.

[(b) There are authorized to be appropriated $350,000,000 for the fiscal year 1984, $400,000,000 for the fiscal year 1985, and $350,000,000 for each of the fiscal years 1986, 1987, and 1988 to carry out the provisions of this title.

[ALLOTMENT TO STATES

[SEC. 204. (a)(1) From 90 per centum of the amount appropriated to carry out this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such 90 per centum as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 per centum of the amount available under this subsection in any fiscal year.

[(2)(A) The Secretary shall reserve 9 per centum of such amount to carry out section 212, relating to discretionary grants of national significance.

[(B) The Secretary shall reserve the remaining 1 per centum to carry out the provisions of subsection (c).

[(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

[(4) The number of children aged five to seventeen, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

[(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this title which the Secretary determines will not be required for that fiscal year to carry out this title shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

[(c)(1) From the amount reserved for each fiscal year under subsection (a)(2)(B), the Secretary shall allot—

[(A) not less than one-half of that amount to whatever agency the Secretary determines appropriate for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior; and

[(B) the remainder of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title.

[(2) The Secretary shall make payments under paragraph (1)(A) on whatever terms the Secretary determines will best carry out the purpose of this title.

[IN-STATE APPORTIONMENT

[SEC. 205. (a) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988; 70 per centum of each State's allotment under section 204 of this title shall be used for elementary and secondary education programs in accordance with section 206.

[(b) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988; 30 per centum of each State's allotment under section 204 of this title shall be used for higher education programs in accordance with section 207.

[ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

[SEC. 206. (a) The amount apportioned under section 205(a) from each State's allotment under this title shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

[(b)(1) Not less than 70 per centum of the amount available under this section shall be distributed to local educational agencies within the State. Each local educational agency shall use funds distributed under this paragraph for—

[(A) the expansion and improvement of training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study the teachers teach; or

[(B) if the local educational agency determines that the agency has met its need for training, inservice training, and retraining under subparagraph (A), subject to the provisions of section 210(c), such training, inservice training, and retraining in the fields of computer learning and foreign languages, and the acquisition of instructional materials and equipment related to mathematics and science instruction.

Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics, science, and computer learning programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, and migrants.

[(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools and (i) private nonprofit schools, or (ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.

[(B) The State educational agency shall distribute 50 per centum of the funds available under this subsection based on the relative number of children aged five to seventeen who—

> [(i) are from families below the poverty level as determined under section 111(c)(2)(A) of the Elementary and Secondary Education Act of 1965; and
>
> [(ii) are from families above the poverty level as determined under section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965;

in the public schools of the local educational agencies within the State.

[(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this title so that a substantial number of teachers in the public and private schools in the school district of such agency are served and several grade levels of instruction in such schools are involved in the program.

[(c)(1) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 30 per centum of the funds available to the local educational agency under subsection (b) may be used for the purchase of computer and computer-related instructional equipment.

[(2) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 15 per centum of the funds available to the local educational agency under subsection (b) may be used to strengthen instruction in foreign languages.

[(d) Not less than 20 per centum of the amount available under this section shall be used by the State educational agency—

[(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science, foreign language instruction, and computer learning,

[(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance,

[(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students, and

[(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics, science, foreign languages, and computer learning.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall reserve not less than 20 per centum of the amount available under this subsection for special projects in mathematics and science, foreign languages, and computer education to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English profiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

[(e) Not less than 5 per centum of the amount available under this section may be used by the State educational agency to provide technical assistance to local educational agencies; institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified under subsection (b).

[(f) Not to exceed 5 per centum of the amount available under this section may be used by the State educational agency for—

[(1) the State assessment required by section 208 of this title; and

[(2) the costs of administration and evaluation of the program assisted under this title.

[HIGHER EDUCATIONAL PROGRAMS

[Sec. 207. (a) The amount apportioned under section 205(b) from each State's allotment under this title shall be used by the State agency for higher education for higher education programs in accordance with the provisions of this section.

[(b)(1)(A) Not less than 75 per centum of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

[(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

[(2) The amount available under this subsection shall be used for—

[(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

[(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, foreign languages, or computer learning to specialize in the teaching of mathematics, science, foreign languages, or computer learning, including the provision of stipends for participation in institutes authorized under title I; and

[(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics, science, foreign languages, and computer learning, including stipends for participation in institutes authorized under title I.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics, science, foreign languages, and computer learning and careers of students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented.

[(3) No institution of higher education may receive assistance under paragraphs (2) (B) and (C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

[(c)(1) Not less than 20 per centum of the amount available under this section shall be used by the State agency for higher education for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science, mathematics, computer learning and critical foreign languages. In carrying out this subsection, the State agency for higher education shall give special consideration to programs involving consortial arrangements which include local educational agencies.

[(2) For the purpose of paragraph (1) of this subsection, critical foreign languages include foreign languages designated by the Secretary pursuant to section 211(d).

[(d) Not to exceed 5 per centum of the amount available under this section may be used by the State agency for higher education for—

[(1) the State assessment required by section 208 of this title; and

[(2) the cost of administration and evaluation of the program assisted under this title incurred by the State higher education agency.

[STATE ASSESSMENT OF MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING

[SEC. 208. (a) Each State which desires to receive grants under this title shall prepare not later than nine months following the date for which funds under this title become available, a preliminary assessment of the status of mathematics, science, foreign language, and computer learning within the State. Such preliminary assessment shall be made available to all local educational agencies within the State to assist the local educational agencies to carry out the requirements of section 210(b). A final version of such assessment shall be submitted to the Secretary not later than the end of the first year for which funds under this title are made available. Each preliminary assessment shall be prepared after an examination of the local assessments submitted under section 210. Each such assessment shall include a description and a five-year projection of—

[(1) the availability of qualified mathematics, science, foreign language, and computer learning teachers at the secondary and postsecondary education levels within the State;

[(2) the qualifications of teachers in mathematics, science, foreign languages, and computer learning at the secondary and postsecondary education levels, and the qualifications of teachers at the elementary level to teach mathematics, science, foreign languages, and computer learning;

[(3) the State standards for teacher certification, including any special exceptions currently made, for teachers of mathematics, science, foreign languages, and computer learning;

[(4) the availability of adequate curricula, instructional materials and equipment, in mathematics, science, foreign languages, and computer learning; and

[(5) the degree of access to instruction in mathematics, science, foreign languages, and computer learning of historically underrepresented and underserved individuals and of the gifted and talented.

[(b) Each such assessment shall also describe the programs, initiatives, and resources committed or projected to be undertaken within the State to—

[(1) improve teacher recruitment and retention;

[(2) improve teacher qualifications and skills in the fields of mathematics, science, foreign languages, and computer learning;

[(3) improve curricula in mathematics, science, foreign languages, and computer learning including instructional materials and equipment; and

[(4) improve access for historically underrepresented and underserved populations, and for the gifted and talented, to instruction in mathematics, science, foreign languages, and computer learning.

[(c)(1) Each State assessment shall be developed in consultation with the Governor, the State legislature, State Board of Education, local educational agencies within the State, and representatives of—

[(A) vocational secondary schools and area vocational education schools,

[(B) public and private institutions of higher education,

[(C) teacher organizations,

[(D) private industry,

[(E) other nonprofit organizations, including libraries, museums, and educational television stations, and professional scientific and mathematics associations, and

[(F) private elementary and secondary schools,

within the State.

[(2) Each State assessment shall be submitted jointly by the State educational agency and the State agency for higher education.

[(d) The Secretary shall prepare and submit to the Congress a summary report of the final version of the assessments submitted by States under subsection (a) as soon as practicable after the receipt of such assessments.

[STATE APPLICATION

[SEC. 209. (a) Each State which desires to receive grants under this title shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(b) Each such application shall—

[(1) designate the State educational agency for the purpose of programs described in section 206, and the State agency for higher education for programs described in section 207 as the agency or agencies responsible for the administration and supervision of the programs described in sections 206 and 207, as the case may be;

[(2) describe the programs for which assistance is sought under the application;

[(3) provide assurances that payments will be distributed by the State in accordance with the provisions of section 206 and 207, as the case may be;

[(4) provide procedures—

[(A) for submitting applications for programs described in sections 206 and 207 for distribution of payments under this title within the State, and

[(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;

[(5) provide assurances that—

[(A) the State will prepare and submit the assessment required under section 208;

[(B) in the second year for which funds are available under this title, the State will use funds for purposes consistent with the findings of the State assessment under section 208;

[(C) for programs described in section 206, the provisions of sections 210 and 211 will be carried out; and

[(D) to the extent feasible, evaluations of the program assisted under this title will be performed;

[(6) provide assurances that Federal funds made available under this title for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such Federal funds, be available from non-Federal sources for the purposes described in sections 206 and 207, and in no case supplant such funds from non-Federal sources; and

[(7) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this title, and (B) to ensure the verification of the programs assisted under the application.

[(c) The Secretary shall expeditiously approve any State plan that meets the requirements of this section.

[LOCAL ECUCATIONAL AGENCY ASSESSMENT

[SEC. 210. (a) Each local educational agency which desires to receive a payment from the State educational agency pursuant to section 206 shall provide to the State educational agency an assessment of the local educational agency's need for assistance in—

[(1) teacher training, retraining, and inservice training and the training of appropriate school personnel in the areas of mathematics, science, foreign languages, and computer learning, including a description of the availability and qualifications of teachers in the areas of mathematics, science, foreign language, and computer learning, including the qualifications of teachers at the elementary level to teach in such areas;

[(2) improving instructional materials and equipment related to mathematics and science education; and

[(3) improving the access to instruction in mathematics, science, foreign languages, and computer learning of historically underserved and underrepresented individuals and of the gifted and talented, and an assessment of the current degree of access to such instruction of such individuals.

[(b) Such assessment shall also describe the types of services to be provided pursuant to the program assisted under section 206, a description of how the services assisted will meet the program needs of the local educational agency, and in the second year for which funds under this title are made available, a description of how the services assisted will address unmet needs described under section 208.

[(c) If a local educational agency determines, pursuant to section 206(b)(1), that the agency has met its teacher training, retraining, and inservice training needs in mathematics and science and desires to expend all or a portion of its funds on other activities prescribed in section 206(b)(1)(B), the local educational agency may request the State educational agency to waive such training requirements. If the State educational agency determines that the local educational agency has met such teacher training needs, the State educational agency shall grant the waiver.

[PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS

[SEC. 211. (a) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

[(b) To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this title.

[(c) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with sections 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.

[SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

[SEC. 212. (a) From the amount reserved by the Secretary under section 204(a)(2)(A), the Secretary is authorized to carry out directly, or through grants, cooperative agreements, or contracts, projects which are authorized by this section.

[(b)(1) From 75 per centum of the amount available under this section in each fiscal year, the Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations for programs of national significance in mathematics and science instruction, computer learning, and foreign language instruction in critical languages. The Secretary shall give special consideration to provide assistance to local educational agencies, or consortia thereof, to establish or improve magnet schools for gifted and talented students. In awarding of grants and cooperative agreements the Secretary shall give special consideration to local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations providing special services to historically underserved and underrepresented populations in the fields of mathematics and science.

[(2) The Secretary, from the amount available under paragraph (1) for each fiscal year, shall reserve not to exceed $3,000,000 in each such year for the Director of the National Institute of Education for the purpose of conducting evaluation and research activities. Such evaluation and research activities shall include—

[(A) a policy analysis of alternative methods to improve instruction in mathematics and science;

[(B) an annual evaluation of the programs assisted under this title; and

[(C) research on improving teacher training, retraining, inservice training, and retention, as well as the development of curriculum and materials in the fields of mathematics and science.

One-half of the funds reserved under this paragraph shall be used for the research activities described in clause (C).

[(c) From 25 per centum of the amount available in each fiscal year, the Secretary shall make grants to institutions of higher education for the improvement and expansion of instruction in critical foreign languages.

[(d) In determining which languages are critical to national security, economic, and scientific needs, the Secretary shall consult with the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the National Science Foundation. The Secretary shall publish in the Federal Register a list of critical foreign languages.

[PAYMENTS

[Sec. 213. (a) From the amounts appropriated under section 203(b), the Secretary shall pay, in accordance with the provisions of this title, the costs of the programs and activities described in the application approved under section 209, and the costs of programs of national significance under section 212.

[(b) Payments under this title shall be made as soon after approval of the application as practicable.]

TITLE III—NATIONAL SCIENCE FOUNDATION PROGRAM FOR PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

* * * * * * *

PROGRAM AUTHORIZED

Sec. 304. (a) * * *

(b) There are authorized to be appropriated $50,000,000 for each of the fiscal years [1986,] *1986 and* 1987[, and 1988], to carry out the provisions of this title. *There are authorized to be appropriated* *to carry out the provisions of this title $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991,, 1992, and 1993.*

* * * * * * *

[TITLE VI—EXCELLENCE IN EDUCATION PROGRAM

[SHORT TITLE

[SEC. 601. This title may be cited as the "Excellence in Education Act".

[STATEMENT OF PURPOSE

[SEC. 602. It is the purpose of this title to make awards to local educational agencies, after a competitive selection process, in order to carry out programs of excellence in individual schools of such agencies designed to achieve excellence in education, which—

[(1) demonstrate successful techniques for improving the quality of education,

[(2) can be disseminated and replicated, and

[(3) are conducted with the participation of school principals, schoolteachers, parents, and business concerns in the locality.

[DEFINITIONS

[SEC. 603. For the purpose of this title—

[(1) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

[(2) The term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

[(3) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

[(4) The term "Secretary" means the Secretary of Education.

[(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[(6) The term "State educational agency" has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

[SCHOOL EXCELLENCE AWARDS AUTHORIZED

[SEC. 604. (a) The Secretary is authorized, in accordance with the provisions of this title, to make awards to local educational agencies for school excellence programs which are consistent with the purpose of this title.

[(b)(1) There are authorized to be appropriated $16,000,000 for each of the fiscal year 1984 and each of the succeeding fiscal years ending prior to October 1, 1988, to carry out the provisions of this title.

[(2) From the amount appropriated each fiscal year, the Secretary shall reserve $3,000,000 in each fiscal year "in which the appropriations for that year exceed $15,000,000" to carry out the provisions of section 607.

[(3) From the amount appropriated in each fiscal year, the Secretary shall reserve $1,000,000 in each fiscal year "in which the apropriations for that year exceed $15,000,000" to carry out the provisions of section 608.

[SELECTION OF SCHOOLS FOR AWARDS

[SEC. 605. (a)(1) The Secretary is authorized to establish, in accordance with the provisions of this section, criteria for the selection of schools to receive awards under this title. Each local educational agency desiring to participate in the awards program authorized by this title shall submit a proposal nominating each specific school of that agency for school improvement activities designed to carry out the purpose of this title. Each such submission shall be made to the chief State school officer of the State in which the local educational agency is located.

[(2) The criteria required by paragraph (1) of this subsection shall include standards for each local educational agency to nominate schools of that agency—

[(A) which have the potential to experiment with standards of quality; and

[(B) which show promise of demonstrating that the school will carry out well-planned, creative, or innovative activities designed to carry out the purposes of this title in a successful manner.

[(3) Each proposal submitted under this subsection shall contain—

[(A) a description of the activities which will be conducted in the school nominated,

[(B) assurances that the school to be nominated will carry out the activities so described, and

[(C) such other information as may be necessary to carry out paragraph (2) of this subsection.

[(b)(1)(A) The chief State school officer of each State shall in each fiscal year from the proposed nominations made pursuant to subsection (a) select twenty-five schools for submission to the Secretary.

[(B) In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana islands, and the Trust Territory of the Pacific Islands, the chief educational officer of such jurisdiction shall nominate five schools in accordance with this subsection.

[(2) In selecting schools from proposed nominations submitted under subsection (a), the chief State school officer shall assure a fair and equitable distribution of schools within the State, after considering—

[(A) all categories of elementary and secondary schools within the State, including elementary schools junior high schools, secondary schools, vocational-technical schools, or any combination of two or more of the schools;

[(B) socioeconomic conditions in the State;

[(C) geographic distribution within the State;

[(D) school size;

[(E) the size and location of the community in which the school is located;

[(F) the local governmental arrangements between the government and the local educational agency making the nomination;

[(G) the potential for the proposed project to successfully demonstrate techniques for improving the quality of education which can be disseminated and replacement; and

[(H) such other relevent as the Secretary may prescribe.

[(3) Each State shall submit to the Secretary the school mominations made in accordance with this subsection. Each such submission may include such additional information as the chief State school officer (the chief educational officer as prescribed in paragraph (1)(B)), and the local educational agency concerned deem appropriate.

[(c)(1) The Secretary shall select not more than five hundred schools from among the nominations submitted pursuant to subsection (b) of this section. The selection under this subsection shall be made by the Secretary after an impartial review panel has considered each submission. The review and selection shall be based upon the factors described in subsection (b)(2) and in accordance with uniform criteria developed by the Secretary.

[(2) In making the selections under paragraph (1), the Secretary shall give priority to proposals which have the highest potential for successfully demonstrating techniques to improve the quality of education and which can be disseminated and replicated. In addition the Secretary shall give priority to proposals which have as their purposes—

[(A) modernization and improvement of secondary school curricula to improve student achievement in academic or vocational subjects, or both, and competency in basic functional skills;

[(B) the elimination of excessive and the electives and the establishment of increased graduation requirements in basic subjects;

[(C) improvement in student attendance and discipline through the demonstrations of innovative student motivation techniques and attendance policies with clear sanctions to reduce student absenteeism and tardiness;

[(D) demonstrations designed to increase learning time for students;

[(E) experimentation providing incentives to teachers, and teams of teachers for outstanding performance, including financial awards, administrative relief such as the removal of paperwork and extra duties, and professional development;

[(F) demonstrations to increase student motivation and achievement through creative combinations of independent study, team teaching, laboratory experience, technology utilization and improved career guidance and counseling; or

[(G) new and promising models of school-community and school-to-school relationships including the use of nonschool personel to alleviate shortages in areas such as math, science, and foreign language instruction, as well as other partnerships between business and education, including the use of equipment.

[AMOUNT AND CONDITIONS OF AWARDSS

[SEC. 606. (a)(1) A school award made to local educational agency pursuant to this title may not exceed $25,000 in any fiscal year or a total of $40,000.

[(2) The amount of each individual school award made pursuant to this title shall be determined by the Secretary based upon the size of the school, the number of students enrolled in the school, and the number of teachers teaching in the school.

[(b) Awards made under this title may not be made for more than two school years. No individual school may be eligible for any additional award under this title.

[SPECIAL SCHOOL AWARDS

[SEC. 607. (a) From the amount reserved under section 604(b)(2) in any fiscal year, the Secretary is authorized to make awards to schools nominated in accordance with the provisions of section 605 to pay the Federal share of the activities described in the proposal if the local educational agency provides further assurances that funds from the private sector will be contributed for carrying out the activities for which assistance is sought.

[(b) For purposes of this section, the Federal share for each fiscal year shall be not less than 67⅔ per centum nor more then 90 per centum. The Secretary shall set the Federal share for categories of school awards based upon uniform criteria established by the Secretary.

[RESEARCH, EVALUATION, DISSEMINATION, AND MONITORING ACTIVITIES

[SEC. 608. (a) From the amount set aside under section 604(b)(3), the Secretary shall conduct research, evaluation, and dissemination activities to assure that exemplary projects and practices which are developed with assistance provided under this title are made available to local educational agencies throughout the United States.

[(b) The Secretary shall use such amount of the funds reserved pursuant to section 604(b)(3) as is necessary to carry out the provisions of this subsection. The Secretary shall establish an independent panel to monitor the success of the programs asssited by this title in achieving the national objections in improving instruction and the achievement of the students.]

[TITLE VII—MAGNET SCHOOLS ASSISTANCE

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 701. There are authorized to be appropriated $75,000,000 for each of the fiscal years 1984, 1985, 1986, 1987, and 1988 to carry out the provisions of this title.

[ELIGIBILITY

[Sec. 702. A local educational agency is eligible to receive assistance under this title if the local educational agency—

[(1) has received $1,000,000 less in the first fiscal year after the repeal of the Emergency School Assistance Act by section 5 of the Omnibus Budget Reconciliation Act of 1981 as a result of the repeal of that Act, or

[(2) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children of faculty in the elementary and secondary schools of such agency; or

[(3) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

[STATEMENT OF PURPOSE

[Sec. 703. It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

[(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

[(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

[PROGRAM AUTHORIZED

[Sec. 704. The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

[DEFINITION

[Sec. 705. For the purpose of this title the term "magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

[USES OF FUNDS

[Sec. 706. Grants made under this title may be used by eligible local educational agencies for—

[(1) planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

[(2) the acquisition of books, materials, and equipment including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

[(3) the payment of our subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

[APPLICATIONS AND REQUIREMENTS

[SEC 707. (a) Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurance that the local educational agency will meet the conditions enumerated in subsection (b).

[(b) As part of the annual application required by situation (a), each eligible local educational agency shall certify that the agency agrees—

[(1) to use funds made available under this title for the purposes specified in section 703;

[(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

[(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

[(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry ou the approved plan;

[(5) to provide assurances that the local educational agency will not engaged in discrimination based upon race, religion, color, or national origin in designing or operating extracurricular activities for students; and

[(6) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

[(c) No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances contained in clauses (3)(4), and (5) [1] will be met.

[SPECIAL CONSIDERATION

[SEC. 708. In approving applications under this title the Secretary shall give special consideration to—

[(1) the recentness of the implementation of the approved plan or modification thereof;

[(2) the proportion of minority group children involved in the approved plan;

[(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

[(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

[PROHIBITIONS

[SEC. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

[LIMITATION ON PAYMENTS

[SEC. 710. (a) No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first year is making satisfactory progress in achieving the purposes of this title.

[(b) No local educational agency may expand more than 10 percent of the amount that the agency receives in any fiscal year for planning.

[(c) No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of the Education Consolidation and Improvement Act of 1981 in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title, except that a State may reduce the amount of assistance received under such chapter 2 if the amount is attributable to clause (3) of section 577 (as in effect prior to the date of enactment of section 502[1] of the Education for Economic Security Act) but only to the extent the amount is so attributable. The Secretary may waive the prohibition against the reduction of assistance received under chapter 2 and permit such a reduction if the State demonstrates that the assistance under such chapter 2 is not necessary to the local education agency concerned.

[PAYMENTS

[SEC. 711. The Secretary shall pay to each local educational agency having an application under this title the amount set forth in the application. Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year.

[WITHHOLDING

[SEC. 712. The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.]

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TITLE IV—DEMAND REDUCTION

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[Subtitle B—Drug-Free Schools and Communities Act of 1986

[SEC. 4101. SHORT TITLE.

[This subtitle may be cited as the "Drug-Free Schools and Communities Act of 1986".

[SEC. 4102. FINDINGS.

[The Congress finds that:

[(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

[(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

[(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental wellbeing and significantly impede the learning process.

[(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

[(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

[(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

[SEC. 4103. PURPOSE.

[It is the purpose of this subtitle to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

[(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

[(2) to States for grants to and contracts with community-based organizations for program of drug abuse prevention, early, intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

[(3) to State for development, training, technical assistance, and coordination activities;

[(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

[(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

[PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

[SEC. 4111. AUTHORIZATION OF APPROPRIATIONS.

[(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $200,000,000 fiscal year 1987 and $250,000,000 for each of the fiscal years 1988 and 1989.

[(b) Appropriations for any fiscal year for payments made under this subtitle in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

[(c) Funds appropriated for any fiscal year under this subtitle shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

[(d) Notwithstanding any other provisions of this subtitle, no authority to enter into contracts or financial assistance agreements under this subtitle shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

[SEC. 4112. RESERVATIONS AND STATE ALLOTMENTS.

[(a) From the sums appropriated or otherwise made available to carry out this subtitle for any fiscal year, the Secretary shall reserve—

[(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

[(2) 1 percent for programs for Indian youth under section 4133;

[(3) 0.2 percent for programs for Hawaiian natives under section 4134;

[(4) 8 percent for programs with institutions of higher education under section 4131;

[(5) 3.5 percent for Federal activities under section 4132; and

[(6) 4.5 percent for regional centers under section 4135.

[(b)(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

[(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

[(3) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and Puerto Rico.

[(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

[PART 2—STATE AND LOCAL PROGRAMS

[SEC. 4121. USE OF ALLOTMENTS BY STATES.

[(a) An amount equal to 30 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the chief executive officer of such State for State program in accordance with section 4122.

[(b) An amount equal to 70 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 4124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 4125.

[SEC 4122. STATE PROGRAMS.

[(a) Not more than 50 percent of the funds available for each fiscal year under section 4121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

[(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

[(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

[(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug free society;

[(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

[(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

[(6) other drug abuse education and prevention activities, consistent with the purposes of this subtitle.

[(b)(1) Not less than 50 percent of the funds available for each fiscal year under section 4121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups community action agencies, and other community-based organizations) to carry out such services.

[(2) For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

[(A) is a school dropout;
[(B) has become pregnant;
[(C) is economically disadvantaged;
[(D) is the child of a drug or alcohol abuser;
[(E) is a victim of physical, sexual, or psychological abuse;
[(F) has committed a violent or delinquent act;
[(G) has experienced mental health problems;
[(H) has attempted suicide; or
[(I) has experienced long-term physical pain due to injury.

[SEC. 4123. STATE APPLICATIONS.

[(a) In order to receive an allotment under section 4112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 4121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 4121(b) in accordance with the requirements of this part.

[(b) The application submitted by each State under subsection (a) shall—

[(1) cover a period of three fiscal years;

[(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

[(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in non event supplant such State, local, and other non-Federal funds;

[(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

[(5) contain assurances that there is compliance with the specific requirements of this part;

[(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

[(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools; and

[(8) provide for an annual evaluation of the effectiveness of programs assisted under this part.

[SEC. 4124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

[(a) Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 412(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 4126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative numbers of children in the school-age population within such areas. Any amount of the funds made available for use in any area remaining unobligated for more than one year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

[(b) Each State educational agency shall use not more than 10 percent of the amounts available under section 4121(b) for each fiscal year for such activities as—

[(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

[(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials for elementary and secondary schools throughout the State;

[(3) demonstration projects in drug abuse education and prevention;

[(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

[(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 4121(b).

[SEC. 4125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

[(a) Any amounts made available to local or intermediate educational agencies or consortia under section 4124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

[(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

[(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

[(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

[(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent or other adult counselors and reformed abusers;

[(5) programs of drug abuse treatment and rehabilitation referral;

[(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

[(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

[(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

[(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

[(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

[(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

[(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

[(b) A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 4126 approved by the State educational agency.

[SEC. 4126. LOCAL APPLICATIONS.

[(a)(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval.

[(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

[(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

[(B) contain an estimate of the cost for the establishment and operation of such programs;

[(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

[(D) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12) and provide assurances that the applicant enforces related rules and regulations of student conduct;

[(E) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

[(F) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

[(G) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, he made available by the applicant for the purposes described in this part, and in no case supplant such funds;

[(H) provide assurances of compliance with the provisions of this part;

[(I) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

[(J) include such other information and assurances as the State educational agency reasonably determines to be necessary.

[PART 3—NATIONAL PROGRAMS

[SEC. 4131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

[(a)(1) From sums reserved by the Secretary under section 4112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

[(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant to enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

[(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

[(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

[(b) Training grants shall be available for—

[(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

[(2) summer institutes and workshops in instruction in the filed of drug abuse education and prevention;

[(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

[(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

[(c) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research drug abuse education and prevention programs.

[(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drugs abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

[(e) In making grants under paragraph (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 4135.

[SEC. 4132. FEDERAL ACTIVITIES.

[(a) From sums reserved by the Secretary under section 4112(a)(5), the Secretary shall carry out the purposes of this section.

[(b) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

[(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act (as amended by this Act);

[(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participating of entertainment personalities and athletes who are recognizable role models for many young people;

[(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

[(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

[(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

[(c) From the funds available to carry out this section, the Secretary shall make available $500,000 to the Secretary of Health and Human Services for the clearinghouse established under section 509 of the Public Health Service Act (as amended by this Act).

[(d) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the appropriate committees of the Congress not later than one year after the date of the enactment of this Act.

[SEC. 4133. PROGRAMS FOR INDIAN YOUTH.

[(a)(1) From the funds reserved pursuant to section 4112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

[(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

[(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for

Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

[(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle.

[(b)(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

[(A) striking out "and" at the end of paragraph (1);

[(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

[(C) adding at the end the following new paragraph:

["(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

[(2) Section 423 of the Indian Education Act (20 U.S.C. 3385b) is amended—

[(A) in subsection (a), by inserting "clinical psychology," after "medicine,"; and

[(B) by adding at the end of the section the following new subsection:

["(e) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.".

[(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

[(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

["(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

["(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

["(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

["(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

["(B) individual student crisis intervention.

["(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

["(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions."

[(4) Section 1129 of the Educational Amendments of 1978 is amended by adding at the end the following new subsection:

["(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

["(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

["(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

[SEC. 4134. PROGRAMS FOR HAWAIIAN NATIVES.

[(a) From the funds reserved pursuant to section 4112(a)(3), the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subtitle for the benefit of Hawaiian natives.

[(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

[SEC. 4135. REGIONAL CENTERS.

[The Secretary shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

[(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse, programs, including long range technical assistance, evaluation, and followup on such training;

[(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

[(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

[(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

[PART 4—GENERAL PROVISIONS

[SEC. 4141. DEFINITIONS.

[(a) Except as otherwise provided, the terms used in this subtitle shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

[(b) For the purposes of this subtitle, the following terms have the following meanings:

[(1) The term "drug abuse education and prevention" means prevention, early intervention, rehabilitation referral and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

[(2) The term "illicit drug use" means the use of illegal drugs and the abuse of other drugs and alcohol.

[(3) The term "Secretary" means the Secretary of Education.

[(4) The term "school-age population" means the population aged five through seventeen (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

[(5) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

[(6) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marina Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

[(7) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

[(8) The term "consortium" (except in section 4131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

[SEC. 4142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

[(a) The Secretary shall be responsible for the administration of the programs authorized by this subtitle.

[(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this subtitle.

[SEC. 4143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS

[(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this subtitle.

[(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this subtitle.

[(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

[SEC. 4144. MATERIALS.

[Any materials produced or distributed with funds made available under this subtitle shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 4125(a).]

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EDUCATION AMENDMENTS OF 1984

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[TITLE VI—EMERGENCY IMMIGRANT EDUCATION ASSISTANCE

[SHORT TITLE

[DEFINITIONS

[SEC. 602. As used in this title—

[(1) The term "immigrant children" means children who were not born in any State and who have been attending schools in any one or more States for less than three complete academic years.

[(2) The terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

[(3) The term "elementary or secondary nonpublic schools" means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

[(4) The term "Secretary" means the Secretary of Education.

[AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

[SEC. 603. (a) There are authorized to be appropriated to make payments to which State educational agencies are entitled under this title and payments for administration under section 604 $30,000,000 for fiscal year 1985, and $40,000,000 for fiscal year 1986 and for each of the three succeeding fiscal years.

[(b)(1) If the sums appropriated for any fiscal year to make payments to States under this title are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this title for each year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

[(2) In the event that funds become available for making payments under this title for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

[STATE ADMINISTRATIVE COSTS

[SEC. 604. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

[WITHHOLDING

[SEC. 605. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this title, the Secretary shall notify that agency that further payments will not be made to the agency under this title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this title to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

[STATE ENTITLEMENTS

[SEC. 606. (a) The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985, 1986, 1987, 1988, and 1989 for the purpose set forth in section 607.

[(b)(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

[(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the district served by such agencies, during the fiscal year for which the payments are to be made under this title, is equal to—

[(A) at least five hundred; or

[(B) at least 3 per centum of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less.

[(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this title but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee,[1] asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this title.

[(B) No reduction of a grant under this title shall be made under subparagraph (A) of any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this title.

[(c)(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

[(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

[(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extend the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

[USES OF FUNDS

[SEC. 607, (a) Payments made under this title to any State may be used in accordance with applications approved under section 608 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 606(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

[(b) Financial assistance provided immigrant children supplementary educational services, including but not limited to—

[(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

[(A) English language instruction;

[(B) other bilingual educational services; and

[(C) special materials and supplies;

[(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

[(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

[APPLICATIONS

[SEC. 608. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

[(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

[(2) provide assurances that payments under this title will be used for purposes set forth in section 607;

[(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 606(b)(1), adjusted to reflect any reductions imposed pursuant to section 606(b)(3) which are attributable to such local educational agency;

[(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

[(5) provide for making such reports as the Secretary may, rasonably require to perform the functions under this title; and

[(6) provide assurances—

[(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officals of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

[(B) that the control of funds provided under this title and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

[(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

[(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

[PAYMENTS

[SEC. 609. (a) Except as provided in section 603(b), the Secretary shall pay to each State educational agency having an application approved under section 608 the amount which that State is entitled to receive under this title.

[(b) If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 608(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.]

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EDUCATION AMENDMENTS OF 1978

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TITLE XI—INDIAN EDUCATION

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PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

SEC. 1121. (a) * * *

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[(g)(1) Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau of Indian Affairs on or after the date of enactment of the Indian Education Technical Amendments Act of 1985 may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

[(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, consolidation, or substantial curtailment of Bureau schools in accordance with the requirements of this subsection.]

(g)(1) All Bureau funded schools and dormitories (including but not limited to those operated by the Bureau under contract or grant with the Bureau, those scheduled within appropriations or administrative action to begin or to be expanded as of January 1, 1987, those eligible for contract under the Indian Self-Determination and Education Assistance Act (P.L. 93-638), those eligible to receive a grant under subtitle B of this title and the facilities improvements, and repairs and new construction associated with such schools and dormitories) which operated or were funded as of January 1, 1987, or which are funded after such date by the Bureau under any authority, are hereby specifically recognized and authorized by Congress.

(2) No education program covered under this subsection may be terminated, transferred to any other authority or consolidated or have its programs substantially curtailed without the express permission of Congress except upon formal request of the tribal council where only one tribe is provided services, or where the facility serves

a multitribal base, the tribal councils representing an aggregate of 90 percent or more of the students served by the school under consideration.

(3) **[**Such standards and procedures shall require that whenever**]** *Whenever* closure, *transfer to any other authority,* consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, *transfer to any other authority,* consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local school board shall be notified at least 6 months prior to the end of the school year preceding the proposed effective date. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

(4) The Secretary shall make a report to Congress, the affected tribe, and the designated local school board describing the process of the active consideration or review referred to in paragraph (3). At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to insure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in futherance of any such proposed school closure, *transfer to any other authority,* consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.

(5)(A) Subject to subparagraph (B), the requirements of paragraphs (2), (3), and (4) shall not apply when temporary closure, consolidation, or substantial curtailment is required by facility conditions which constitute an immediate hazard to health and safety, except that (i) no action under this provision can be for longer than one academic year or one calendar year, whichever is shorter, and (ii) no action may be taken until the Bureau has requested, and provided a reasonable period for the conduct of, an inspection by the appropriate tribal or country, State, or municipal building inspector, to determine the presence of an immediate threat to health and safety.

(B)(i) No building inspector other than one designated by the tribe shall make an inspection under this paragraph unless notice is given to the involved tribes at the same time that the request is made.

(ii) No action shall be taken under this paragraph if the inspection by the outside inspector finds no immediate hazard to health and safety.

(6) The Assistant Secretary shall develop regulations to establish new schools and to make program expansions in existing schools operated by the Bureau, and contracted under the Indian Self-Determination and Education Assistance Act, except that no regulations may be promulgated which base the decision primarily upon the geographic proximity of public education, and which do not give equal weight to geographic and demographic factors, the history and record of success or failure of the programs offered by the Bureau and by all alternative providers or potential providers of education services for the students under consideration, and the input of all parties, including the public school.

(7) Notwithstanding any other provision of law, subject to a determination by the local school board, the schools at the Pueblo of Zia and the Tama Settlement shall expand to kindergarten through grade 8.

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NATIONAL CRITERIA FOR DORMITORY SITUATIONS

SEC. 1122. (a) * * *

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(d) The standards under this section shall be subject to the waiver provisions in section 1121(d), provided that no school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with these standards) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet these standards. Before February 1, 1988, the Assistant Secretary shall submit to Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the standards under this section.

[(d)] *(e)* There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

[REGULATIONS

[SEC. 1123. The Secretary shall establish such regulations as are necessary to carry out sections 1121 and 1122 within eighteen months after the date of enactment of this Act.]

REGULATIONS

SEC. 1123. (a) The provisions of 25 CFR parts 31, 32, 33, 36, 39, 42, 43, as in effect on January 1, 1986 are hereby incorporated and made a part of this Act. Except as may be specifically authorized by law, such provisions may not be changed or amended.

(b) Except as required by Public Law 99–288 or as may be specifically required by this Act or any subsequent Act, the Assistant Secretary for Indian Affairs or the Secretary of the Interior shall publish no regulations, guidelines, policies, or procedures of general effect on the issues covered by such provisions.

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ALLOTMENT FORMULA

SEC. 1128. (a) The Secretary shall establish, by regulation adopted in accordance with section 1138, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

(1) the number of eligible Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs;

(C) food and housing costs;

(D) maintenance and repair costs associated with the physical condition of the educational facilities;

(E) special transportation and other costs of isolated and small schools;

(F) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

(G) costs associated with greater lengths of service by educational personnel; and

(H) special programs for gifted and talented students;

(3) cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

(4) such other relevant factors as the Secretary determines are appropriate.

For the fiscal year 1989 and for each subsequent fiscal year in which the Assistant Secretary does not provide funds to educational programs in accordance with the last sentence of this subsection, the Assistant Secretary shall use a weighted student unit of 1.2 for students in the seventh and eighth grades; shall use a factor of 200 students when determining an adjustment for a small school factor; and, where requested by the local supervisor and school board, shall make provision in the formula for the provision of residential services on a less than 9-month basis.

* * * * * * *

[(c)(1) The formula established under subsection (a) of this section shall be implemented for fiscal year 1980 and each succeding fiscal year, except that—

[(A) for fiscal year 1980, no school shall as a consequence of such formula receive less than 90 per centum, nor more than 120 per centum, of the funds it recived from Bureau education funds for fiscal year 1979;

[(B) for fiscal year 1981, no school shall as a consequence of such formula receive less then 70 per centum, nor more than 170 per centum, of the funds it received from Bureau education funds for fiscal year 1979; and

[(C) for fiscal year 1982 and any succeeding fiscal year the formula shall be fully implemented.

[(2) All Bureau and contract schools receiving funds under this section shall receive an equal amount as an allowance for local school board training and activities including, notwithstanding any other provision of law, meeting expenses and the cost of membership in or support of organizations engaged in activities on behalf of Indian education.

[(3) The Secretary shall, subject to appropriations, provide to all contract schools an amount for administrative and indirect costs which is at least equal to the amount which would be expended by the Secretary if such school were directly operated by the Secretary. The Secretary shall take such actions as are necessary to provide contract schools with the full amount as determined by this paragraph without reducing funds available under subsection (a) of this section.]

"(c)(1) The Secretary shall compute, on an annual basis, and shall pay for funds appropriated for payment of the formula under subsection (a) of this section an administrative cost payment based upon this subsection to each contractor (under the Indian Self-Determination and Education Assistant Act; Public Law 93–638) or grantee (under the Self-Determination Grant Act of 1987). Any other provision of law notwithstanding, the Secretary shall not compute administrative cost by any other means.

(2)(A) Subject to the adjustments in subparagraph (B), the administrative cost shall be the sum of 12 percent of the amount under clause (i) of this paragraph added to the amount under clause (ii) of this paragraph, divided by the sum of the amounts in clauses (i) and (ii) of this subparagraph, calculated as a percentage to two decimal places, multiplied by the amount of clause (iv) of this paragraph. For purposes of this subparagraph, the following will be used:

(i) The total direct program funding of each grantee for all Bureau elementary and secondary education functions, as defined in paragraph (3) of this paragraph, and all Bureau of Indian Affairs programs or parts of programs contracted for, or for which grants are received from the Bureau during the proceding fiscal year, which shared common administrative services (as such term is defined in subsection (g)) with the programs covered by subsection (a) of this section, irrespective of the number of contracts involved.

(ii) Fifty percent of the amount under clause (iii).

(iii) The average total direct program funding for all Bureau programs or parts of programs included under clause (i) for all contractors contracting bureau of Indian Affairs elementary and secondary education functions during the preceding fiscal period.

(iv) Each grantee's total direct program funding for Bureau elementary and secondary education functions, as defined under paragraphs (3) of this paragraph and all other Bureau programs or parts of programs contracted for, or for which grants are received from the Bureau, for the fiscal year for which this computation is being performed which will share common administrative services (as defined by subsection (g)).

(B) The percentage rate as determined under subparagraph (A) of this paragraph shall be adjusted as follows:

(i) An additional 1 percent shall be added for each 100 miles that the average of the distances from the principal offices of the grantee or contractor to the nearest office of the banking institution used by the contractor for regular business, the nearest office of the banking institution used by the grantee or contractor at which a draw down upon a letter of credit request must be presented, if different, the nearest site for regular procurement of bulk school, office and janitorial supplies, office and school equipment and related maintenance and repair items, and the nearest post office, exceeds 20 miles.

(ii) An additional ¼ percent for each school in excess of one administered by the same contractor or grantee.

(iii) An additional ¼ percent for each Bureau program or part of a program contracted for, or for which a grant is received, which requires bookkeeping and fiscal management procedures in excess of those normally maintained by the contractor or grantee for the program under this section.

(C) The Bureau, as lead agency, shall pay administrative costs as determined by the formula under this subsection for the total program dollars contracted pursuant to the Indian Self-Determination and Education Assistance Act (P.L. 93-638) or granted pursuant to title II of this Act for basic educational operations including ISEP, chapter 1 of the Education Consolidation and Improvement Act, the Education of the Handicapped Act, and operation and maintenance or the part or parts contracted or granted by a tribally controlled school, except that the Secretary of the Interior may (i) reduce administrative costs payments from the Bureau to the extent of administrative costs funds actually received by tribally controlled schools under such Acts and programs and (ii) shall take such steps as may be necessary to collect any additional sums under such Acts and programs.

(3) For purposes of this section, the term "Bureau elementary and secondary functions" shall include, but not be limited to, all programs funded under this section, all contracted or granted programs or projects distributed by the Bureau but funded under authorities of the Department of Education, and all contracted or granted operations and maintenance funds, from whatever source derived.

(4) Subject to this subsection, .133 percent of the funds under subsection (a) shall be reserved by the Assistant Secretary for distribution under this section for national school board training to be conducted in the manner in which it was conducted in fiscal year 1986, except that the contract for such training may not be awarded after May 1 of each fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations. For a school operated by the Bureau of Indian Affairs—

(A) for each year in which the Assistant Secretary funds education programs under a weighted unit formula, a school which generates less than 168 weighted units will receive an additional 2 weighted units, to defray school board activities; and

(B) from the funds received under subsection (a) of this section, an amount which is the greater of $4,000 or 2 percent of the funds received shall be reserved for school board activities, including but not limited to, and notwithstanding any other

provision of law, meeting expenses and the cost of membership in and support of organizations engaged in activities on behalf of Indian education.

(3) For each fiscal year beginning October 1, 1987, and each succeeding fiscal year, Bureau operated education programs are hereby authorized to carry forward, at the election (made at any time in the fiscal year) of the local school authority, with the approval of the local board, an amount equal to no more than 15 percent of the amount received under this section, and shall remain available until expended.

* * * * * * *

(h) The term "administrative costs" as used in this section shall mean the additional costs which a tribe or tribal organization incurs as a result of a contract or grant operation of a function authorized by or previously accomplished by the Assistant Secretary. The additional costs may include but not be limited to contract supervision, program management, fiscal management, planning and development personnel, property and procurement, corporate and safety, executive management, office services, policy direction security, and recordkeeping.

UNIFORM DIRECT FUNDING AND SUPPORT

SEC. 1129. (A)(1) * * *

* * * * * * *

(4) [Pursuant to guidelines established by the Assistant Secretary, notwithstanding. *Notwithstanding* any law or regulation governing procurement by Federal agencies, *for the fiscal year 1988 and thereafter,* the supervisor of each school receiving funds under section 1128 shall, subject to school board approval, have the authority to expend no more than $25,000 annually of the funds allotted by section 1128 to procure supplies and equipment, without competitive bidding. *Purchases made pursuant to this authority shall (A) be restricted to funds received under section 1128 of this Act, (B) include certification by supervisor of the school that the price paid is fair and reasonable, (C) have specific school board authority for each purchase, (D) be documented by a journal which details the name of the school, the type of items purchased, and the amount, date, and size of the transaction, business, (E) specifically cite this provision of law for authority to make the purchase, and (F) not exceed a cost of $10,000 for any single item purchase.*

* * * * * * *

(f) Subject to the funds generated by the provisions of this Act, where specifically requested by the tribes, the Bureau of Indian Affairs shall implement any cooperative agreement involving a Bureau operated education program entered into between the tribe and the local public school. The tribe and the local school district shall decide what shall be encompassed by the agreement, and the agreement may encompass coordination of all or any part of the following:

(1) The academic program and curriculum (if a Bureau operated facility which is currently accredited by a State or regional accrediting entity would still be State accredited).

(2) Support services, including procurement and facilities maintenance.

(3) Transportation.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

SEC. 1130. *(a)* It shall be the policy of the Bureau, in carrying out the functions of the Bureau to facilitate Indian control of Indian affairs in all matters relating to education.

(b)(1) All actions under this Act shall be done with active consultation with the tribes.

(2) For purposes of this Act, the term "consultation" means a process of meeting with tribes, Alaskan natives entities, and Indian and tribal organizations on a periodic and systematic basis not less than every 3 months. Notice of all such meetings shall be given at least 30 days prior to any such meeting. Notice shall be given in the Federal Register, along with a list of topics to be covered. Meetings will be held in different regions of the country, so as to facilitate participation. During such meetings, department officials shall provide information on all matters, including budget initiatives and discussions, all regulatory provisions which will be or are being considered for, amendment or change withn the next 6 months, all administrative changes affecting delivery mechanisms, and seek input on all issues considered important by the Indian entities participating, including those issues affecting programs in other Federal agencies. Unless for clear and convincing reasons, Department officials shall give effect to the views of these entities. The consultation requirement of this section will be met only by open discussion at the required meetings. Bureau officials shall meet if requested by the Indian entities.

EDUCATION PERSONNEL

SEC. 1131. (a)(1) * * *

* * * * * * *

(f)(1)Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any *initial hire or any other* personnel action within the purview of this section respecting an employee not entitled to Indian perference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, where such a waiver is in writing deemed to be a necessity by the tribal organization, except that this shall in no way relieve the Bureau of its responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if it is intended to fill a vacancy (no matter how such vacancy is created).

* * * * * * *

PERSONNEL

SEC. 1140C. (a) Not later than March 1, 1988, from funds appropriated for administration, the Assistant Secretary shall conduct a study and make a report to the Congress of Bureau of Indian Affairs funded school personnel costs, including—

(1) current salaries paid to education personnel in Bureau of Indian Affairs funded schools;

(2) current salaries paid to personnel in positions comparable to Bureau of Indian Affairs education positions in proximate local educational agencies of States in which Bureau of Indian Affairs funded schools are found; and

(3) State average salaries.

Such surveys shall take into consideration starting salaries, tenure, length of service, educational requirements, and fringe benefits and projections for the next five years.

(b) The Bureau shall detail such staff to the study as may be necessary. Such staff shall include not less than 2 career emoloyees from the Division of Education who have substantial experience in the administration at the agency level of school operations and in the drafting of personnel regulations, including but not limited to those under the Education Amendments of 1978.

(c) The Assistant Secretary may conduct the study required by this section by contract with an Indian educational organization.

(d) For purposes of this section, the term "educational personnel" shall mean a person who fills an "education position", as such term is defined in section 1131 of the Education Amendments of 1978.

(e)(1) In those instances where the Assistant Secretary determines that the disparity of compensation affects the recruitment and retention of employees at a school to the extent the ability to provide education services (including support services) is impaired, the Assistant Secretary shall grant the local Bureau school supervisor the authority under section 1131(h)(2), subject to the approval of the local school board.

(2) The presence of more than 10 percent vacancy in staff positions or a 5 percent disparity in compensation rates (as determined by survey to be conducted by the Agency Education Office no less than once every 5 years) at a school at any one time shall automatically trigger the authority under paragraph (1).

(3) The assistant Secretary shall make a separate report to the Congress each fiscal year (at the time of the budget submission) of all requests of authority under paragraph (1), of all grants of this authority, and all positions contracted under such grants.

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PART C—MISCELLANEOUS AMENDMENTS; EFFECTIVE DATES

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[GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS

[SEC. 1524. There is hereby authorized to be appropriated $5,000,000 for the fiscal year ending September 30, [1979,] *1985*, and for each of the four succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

[TERRITORIAL TEACHER TRANINING ASSISTANCE

[SEC. 1525. There is hereby authorized to be appropriated $2,000,000 for the fiscal year ending September 30, [1979,] *1985*, and for each of the four succeeding fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Commissioner of Education shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Commissioner may make grants to or contracts with any organization that he deems qualified to provide training for teachers in such schools and shall allot such sums among such territeries on the basis of the need for such training.]

* * * * * * *

ACT OF SEPTEMBER 30, 1950

To provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes.

TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

* * * * * * *

FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to October 1, [1988—] *1993—*

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

* * * * * * *

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

CHILDREN OF PERSONS WHO RESIDE AND WORK ON FEDERAL PROPERTY

SEC. 3. (a) * * *

CHILDREN OF PERSONS WHO RESIDE OR WORK ON FEDERAL PROPERTY

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to October 1, [1988,] *1993,* the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or in whole or in part in the school district of such agency if the school district is located in more than one county, or (B) if not in such county or district, in whole or in part in the same State as the school district of such agency, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local eduational agency, in the case of any fiscal year ending prior to October 1, [1988,] *1993,* the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence of any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

* * * * * * *

AMOUNT OF PAYMENTS

(d)(1) * * *

(2)(A) * * *

* * * * * * *

(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum. *Tuition funds under this section may be paid for any student not eligible for funding under section 1128 of P.L. 95-561 in any school receiving funding under such section. No condition involving program or personnel shall apply to any such payments.*

(E)(i) * * *

(ii) The amount of the entitlement of any local educational agency under this section for any of the fiscal years 1983 through [1988] *1993* with respect to children determined under subsection (b) with respect to such agency shall be the amount determined under paragraph (1) with respect to such children multiplied by 33⅓ per centum.

* * * * * * *

SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE INCREASES HEREAFTER OCCURRING

SEC. 4. (a) If the Commissioner determines for any fiscal year ending prior to October 1, [1988—] *1993—*

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such during the preceding fiscal year and the number of such children whose attendance during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property);

* * * * * * *

ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CLASS OF CERTAIN DISASTERS

SEC. 7. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to October 1, [1988,] *1993,* has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to October 1, [1988,] *1993,* as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such castastrope caused by negligence or malicious action; and

* * * * * * *

LIMITATION ON PAYMENTS

SEC. 8. Notwithstanding any other provision of this title, amounts appropriated for the purposes of this title for fiscal year 1988 may not exceed $735,000,000.

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS

SEC. 307. (a) For the purpose of making payments under this title, there are authorized to be appropriated [(1) for each of the fiscal years ending prior to October 1, 1986, such sums as may be necessary, and (2) for each of the fiscal years 1987, 1988, and 1989,] *fiscal year 1987* an amount not to exceed the amount appropriated for such purpose for fiscal year 1986. *For the purposes of making payments under this title there are authorized to be appropriated $70,000,000 for fiscal year 1988 and such sums as may be necessary for each of the five succeeding fiscal years.*

* * * * * * *

INDIAN EDUCATION ACT

* * * * * * *

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

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SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR TEACHERS OF INDIAN CHILDREN

SEC. 422. (a) * * *

* * * * * * *

[(c) There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and for each of the succeeding fiscal years ending prior to October 1, 1986 to carry out the provisions of this section. There is also authorized to be appropriated to carry out the provisions of this section for each of the fiscal years, 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.]

(c) There are authorized to be appropriated for each of the fiscal years 1988, 1989, 1990, 1991, 1992, and 1993, such sums as may be necessary.

FELLOWSHIPS FOR INDIAN STUDENTS

SEC. 423. (a) During the fiscal year ending June 30, 1975, and each of the succeeding fiscal years ending prior to October 1, [1989,] *1993,* the Commissioner is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than four, academic years leading toward a postbaccalaureate degree in medicine, clinical psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields. The Commissioner may, if a fellowship is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

* * * * * * *

[(d) The amount that is authorized to be appropriated to carry out the provisions of this section for each of the fiscal years 1987, 1988, 1989, is the amount appropriated for such purpose for fiscal year 1986.]

(d) There is authorized to be appropriated for the purpose of this section such sums as may be necessary for each fiscal year ending prior to October 1, 1993.

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PART D—OFFICE OF INDIAN EDUCATION

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NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

SEC. 442. (a) There is hereby established the National Advisory Council on Indian Education (referred to in this title as the "National Council"), which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations and shall represent diverse geographic areas of the country. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, [1989.] *1993.*

* * * * * * *

PART E—MISCELLANEOUS PROVISIONS

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DEFINITION

SEC. 453. (a) For the purposes of this title, the term "Indian" means any individual who (1) is a member *, as defined by the tribe, and, or other organized group,* of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by te Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian".

[(b) The Assistant Secretary of Health, Education, and Welfare for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, shall supervise a thorough study and analysis of the definition of Indian contained in subsection (a) and submit a report on the results of such study and analysis to the Congress not later than January 1, 1980. Such study and analysis shall include but not be limited to—

[(1) an identification of the total number of Indian children being served under this title;

[(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

[(3) an evaluation of the consequences of eliminating descedants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, and groups must be recognized or of both;

[(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

[(5) recommendations with respect to criteria for use by the Commissioner udner the rulemaking authority contained in clause (4) of such subsection.]

[(c) On the form establishing a child's eligibility for entitlement under part A of this Act, the Commissioner shall request at least the following information on the student eligibility form:]

(b) For the purpose of collecting statistical information only, and not for the purpose of establishing eligibility, forms provided by the Department may provide for the provision of the following information, where available to the parent and at the option of the parent:

(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership, membership roles of any of the applicant's parents or grandparents, from whom, the applicant claims eligibility;

(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

(3) the name and address of the parent or legal guardian;

(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(5) any other information which the Secretary deems necessary to provide an accurate program profile.

Nothing in the requirements of paragraphs (1) through (5) of this subsection shall be construed as changing or restricting the applicable eligibility definition set forth in subsection (a) of this section. *Failure to provide any of the information listed above shall have no bearing on the determination of eligibility of the student.*

(c) DETERMINATION OF ELIGIBILITY.—Determination of a student's eligibility to participate in this program, under the definition of subsection (a), shall vest solely with the parent committee and the local educational agency. It shall be based upon such information of

eligibility as the parents may submit, include written proofs that the student is and has been for his or her life regarded by the community in which he or she resides as Indian. Such information shall be initially reviewed by the parent committee (under written guidelines established by such committee and the local educational agency which shall be on file and available to the public), which shall make a finding as to eligibility and shall submit such finding to the local education agency. The local education agency shall review and may accept or eject such finding with respect to any individual, except that a local educational agency may not count as eligible. Determinations of eligibility which are agreed to by the parent committee and the local educational agency shall not be subject to further administrative review.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1966

[TITLE III—ADULT EDUCATION

[SHORT TITLE

[SEC. 301. This title may be cited as the "Adult Education Act".

[STATEMENT OF PURPOSE

[SEC. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

[(1) enable all adults to acquire basic literacy skills necessary to function in society.

[(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

[(3) to make available to adults the means to secure training and education that will enable them to become more employable, productive, and responsible citizens.

[DEFINITIONS

[SEC. 303. As used in this title—

[(a) The term "adult" means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 305(a), the term "adult" means an individual 16 years of age or older.

[(b) The term "adult education" means instruction or services below the college level for adults who do not have—

[(1) the basic skills to enable them to function effectively in society; or

[(2) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

[(c) The term "adult basic education" means adult education for adults whose inability to speak, read, or write the English lanugage constiutes a substantial impairment of their ability to get or retain employment commensutate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

[(d) The term "Secretary" means the Secretary of Education.

[(e) The term "community school program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural and other related community services for the community that center serves in accordance with the needs, interest, and concerns of that community.

[(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

[(g) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[(h) The term "State educational agency" means the State board of education or other agency or officer primary responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

[(i) The term "academic education" means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

[(j) The term "institution of higher education" means any such institution as defined by section 481 of the Higher Education Act of 1965.

[GRANTS TO STATES FOR ADULT EDUCATION

[SEC. 304. (a)(1) The Secretary is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (A) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and by public or private agenices, organizations, and institutions, and (B) the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The State educational agency shall not approve any application unless assured that such consultation has taken place. Such application shall contain a description of the cooperative arrangements that have been made to deliver services to adult students.

[(2) Grants provided under this section may not be used to carry out programs by a for-profit agency, organization, or institution unless such agency, organization, or institution (A) can make a significant contribution to attaining the objectives of this Act, and (B) can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public institutions. Whenever the establishment or expansion of programs is carried out by a for-profit agency, organization, or institution, the State educational agency or eligible applicant shall enter into a contract with such agency, organization, or institution, for the establishment or expansion of such programs.

[(b) Not more than 20 per centum of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.

[ALLOTMENT FOR ADULT EDUCATION

[SEC. 305. (a) Subject to the last sentence of this subsection, from the sums available for purposes of section 304(b) for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $250,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. No State shall be allotted in any fiscal year beginning after September 30, 1984, an amount less than that State received for fiscal year 1984.

[(b) The portion of any State's allotment under section (a) for a fiscal year which the Secretary determines will not be required, for the period of such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

[STATE PLANS

[SEC. 306. (a) A State shall be eligible to receive its allotment under section 305 if—

[(1) it has on file with the Secretary a general State application under section 435 of the General Education Provisions Act, and

[(2) it has submitted to the Secretary at such times (not more frequently than one every three years), and in such detail, as the Secretary shall prescribe a State plan meeting the requirements of subsection (b).

[(b) A State plan under this title shall—

[(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults;

[(2) provide for the administration of the program by the State educational agency;

[(3) describe the procedures the State will use to ensure that in carrying out such program there will be adequate consultation, cooperation, and coordination among the State educational agency, State manpower service councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

[(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

[(5) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

[(6) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and public or private nonprofit agencies, organizations, and institutions);

[(7) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school systems, such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations.

[(8) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rate of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through these agencies, institutions, and organizations;

[(9) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;

[(10) provide that special emphasis be given to adult basic education programs except where such needs are shown to have been met in the State;

[(11) provide that special assistance be given to the needs of persons with limited English proficiency (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965) by providing a bilingual adult education program of instruction in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under title VII and bilingual vocational education programs under the Carl D. Perkins Vocational Education Act;

[(12) demonstrate that the special educational needs of adult immigrants in the State have been examined, and provide for the implementation of adult education and adult basic education programs for immigrants to meet existing needs;

[(13) set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions;

[(14) provide such further information about the State's adult education students, programs, expenditures, and goals as the Secretary may require, together with information with respect to the age, sex, and race of students in the programs assisted under this Act and whether the students complete such programs; and

[(15) provide such further assurances and information as the Secretary may require.

[(c) The Secretary shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

[PAYMENTS

[SEC. 307. (a) The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 per centum of the cost of carrying out the State's programs, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 per centum.

[(b)(1) No payment shall be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

[(2) The Secretary may waive, for one fiscal year only, the requirements of paragraph (1) of this subsection, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

[ADMINISTRATION OF STATE PLANS

[SEC. 308. Whenever the Secretary has reason to believe that, in administering its State plan, a State has failed to comply substantially with any provision of that State plan, the Secretary may take appropriate action under sections 453 and 454 of the General Education Provisions Act.

[RESEARCH, DEVELOPMENT, DEMONSTRATION, DISSEMINATION, AND EVALUATION

[SEC. 309. (a)(1) The Secretary shall, with funds set aside under section 314(b), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States. The activities required by this subsection may include—

[(A) improving adult education opportunities for elderly individuals and adult immigrants,

[(B) evaluating educational technology and computer software suitable for providing instruction to adults, and

[(C) supporting exemplary cooperative adult education programs which combine the resources of businesses, schools and community organizations.

[(2)(A) The Secretary may support such activities directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals, including business concerns.

[(B) Whenever the Secretary makes a grant or enters into a contract or cooperative agreement with any private for-profit institution, agency, organization, individual, or business concern, the Secretary shall assure that participants in the program assisted under this subsection are not charged for their participation.

[(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education may, with funds available under that section or with funds set aside under section 314(b) of this Act, support research on the special needs of individuals requiring adult education. The Director may support such research directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

[USE OF FUNDS FOR SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

[SEC. 310. Of the funds allotted to a State under section 305 for a fiscal year, not less than 10 per centum shall be used for—

[(1) special projects which will be carried out in furtherance of the purposes of this title, and which—

[(A) involve the use of innovative methods, including methods for educating persons of limited English-speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or

[(B) involve programs of adult education, including education for persons of limited English-Speaking ability, which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

[(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

[STATE ADVISORY COUNCILS

[SEC. 311. Any State may use funds granted under section 304 to support a State advisory council which assists the State educational agency to plan, implement, or evaluate programs or activities assisted under this Act.

[NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

[SEC. 312. (a) The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the "Council").

[(b) The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Secretary and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, 1988.

[(c) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

[(d) The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations. The Secretary of Health, Education, and Welfare shall coordinate the work of the Council with that of other related advisory councils.

[LIMITATION

[SEC. 313. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

[APPROPRIATIONS AUTHORIZED

[SEC. 314. (a) For the purpose of carrying out this title there are authorized to be appropriated $140,000,000 for fiscal year 1985 and such sums as may be necessary for each of the three succeeding fiscal years.

[(b)(1) From the amount appropriated pursuant to subsection (a) for any fiscal year the Secretary may set aside not to exceed 5 per centum of that amount for programs under section 309. The remainder of the amount appropriated in each fiscal year shall be available for grants made under section 304.

[(2) No set aside may be made pursuant to paragraph (1) of this subsection in any fiscal year in which the amount appropriated pursuant to subsection (a) of this section is less than $112,000,000.

[IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

[SEC. 315. (a) The Secretary shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

[(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

[(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

[(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

[(4) to provide for basic surveys and evaluation thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

[(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

[(b) The Secretary is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

[(c) The Secretary is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

[(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

[(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

[(d) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

[(1) set forth a statement describing the activities for which assistance is sought;

[(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

[(e) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to October 1, 1986. There is authorized to be appropriated for such purpose for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.]

TITLE III—ADULT EDUCATION PROGRAMS

SEC. 301. SHORT TITLE.

This title may be cited as the "Adult Education Act".

PART A—BASIC PROGRAM PROVISIONS

SEC. 311. STATEMENT OF PURPOSE.

It is the purpose of this title to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

SEC. 312. DEFINITIONS.

As used in this title—

(1) The term "adult" means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 313(b), the term "adult" means an individual 16 years of age or older.

(2) The term "adult education" means services or instruction below the college level for adults—

(A) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

(B) who are not currently required to be enrolled in schools and are not enrolled in school; and

(C) whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

(3) The term "educationally disadvantaged adult" means an adult who—

(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

(4) The term "community school program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interest, and concerns of that community.

(5) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(6) The term "Secretary" means the Secretary of Education.

(7) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and except for the purposes of section 313, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

(8) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

(9) The term "academic education" means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

(10) The term "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965.

SEC. 313. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1988 and such sums as

may be necessary for each succeeding fiscal year through fiscal year 1993 for carrying out the purposes of this title.

(b) Allotment.—From the sums available for the purposes of section 311 for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently enrolled or required to be enrolled in schools in such State bears to the number of such adults in all States.

(c) Reallotment.—The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required, for the period of such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

(d) Minimum Allotment.—Notwithstanding any other provision of this section, the sum of any State's allotments under this section for any fiscal year shall not be less than the total amount of payments the State received for fiscal year 1987. Any amounts necessary for increasing the sum of allotments of certain States to comply with the preceding sentence shall be obtained by ratably reducing the sums of the allotments of the other States, but no such sum shall be thereby reduced to an amount which is less than the total amount of payments received by the State for fiscal year 1987.

(e) Reservation of Funds for National Programs.—For any fiscal year, if amounts appropriated to carry out the purposes of this title exceeds $108,000,000, not more than 3 percent of such amounts shall be reserved to carry out the programs described in part C, relating to national programs.

PART B—STATE PROGRAMS

Subpart 1—Basic State Grants

SEC. 321. BASIC GRANTS.

From the sums allotted to States for this subpart pursuant to section 313, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this title.

SEC. 322. USE OF FUNDS; LOCAL APPLICATIONS.

(a) Use of Funds.—

(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local education agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.

(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency, organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization.

(3) The State educational agency shall not approve any application unless evidence that such consultation has taken place is provided. Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults as well as assurances that adult educational programs, services, or activities provided under this title are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

(4) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults.

(b) Limitations on Use of Funds.—

(1) Not more than 20 percent of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.

(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

SEC. 323. PRIVATE SECTOR ADULT EDUCATION TRAINING.

(a) Literacy Programs for Employees.—From the grants awarded to States described in section 322(a), a State may designate up to 10 percent of their State allotment for use to support, consistent with section 361(a), programs designed to provide literacy and other basic skills in order to improve the productivity of current employees through the use of business industry, labor organizations, and education partnerships.

(b) Requirements for Programs.—Programs funded under this section shall be designed to improve the productivity of the workforce and shall be jointly applied for and conducted by a business or industry or labor organization, or private industry council as defined under the Job Training Partnership Act and a local educational agency or institution of higher education.

SEC. 324. LOCAL ADMINISTRATIVE COST LIMITS.

(a) Of the funds provided by the State agency to eligible recipients, at least 95 percent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

(b) In cases where the administrative cost limits under subsection (a) would be insufficient for adequate planning, administration, evaluation,and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

Subpart 2—State Administrative Responsibilities

SEC. 331. STATE ADMINISTRATION.

(a) State Agency Responsibilities.—Any State desiring to participate in the programs authorized by this title shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—

(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 342 and 351), and the State evaluation (pursuant to section 352);

(2) consultation with the State advisory council established pursuant to section 332, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this title; and

(3) the assignment of such personnel as may be necessary for the State administration of programs under this Act.

(b) State Imposed Requirements.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on state interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

(c) Limitation on State Administrative Costs.—From the amount appropriated to each State, pursuant to section 313, for any fiscal year, not more than 5 percent may be made available to pay

the cost of administration and development of the State plan and other activities required pursuant to this title (including the operations of the State Advisory council under section 332).

SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION.

(a) REQUIREMENT.—Any State which desires to participate in programs under this title for any fiscal year shall designate a body, or establish a new body if there is no suitable existing body to act as a State advisory council on adult education, appointed by the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education, and shall consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.

(b) REPRESENTATION ON COUNCIL.—The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

(c) CERTIFICATION.—The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this title.

(d) PROCEDURES.—Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least one public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In carrying out the evaluations under subsection (f)(3)(A), the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.

(e) TERMS.—Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(f) DUTIES.—Each State advisory council shall—

(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

(2) advise the State agency concerning—

(A) policies the State should pursue to strengthen adult education; and

(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and

(3)(A) approve the plan for evaluations required in section 352 and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such eval-

uations, and (C) include in any report of such evaluations its comments and recommendations.

Subpart 3—Planning and Applications

SEC. 341. STATE PLAN AND APPLICATION

(a) REQUIREMENT.—Any State desiring to receive funds under this title shall submit to the Secretary, during the fiscal year 1988 and during each fourth fiscal year occurring thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

(b) PROCEDURE FOR SUBMISSION AND CONSIDERATION.—Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is in effect. The Secretary shall approve, within sixty days, each such plan and application which is formulated in accordance with sections 342 and 343 and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

(c) GEPA PROVISION.—Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for purposes of the provisions of section 435 of the General Education Provisions Act.

SEC. 342. FOUR-YEAR STATE PLAN.

(a) PROCEDURES REQUIRED IN FORMULATING STATE PLAN.—(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, established pursuant to section 332 of this title.

(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary.

(3)(A) Not less than sixty days before submission of the State plan to the Secretary under section 341, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job training Coordinating Council under the Job Training Partnership Act, and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

(B) Not less than sixty days before the submission of the State plan to the Secretary, such plan shall be submitted to the State plan advisory council. Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in

submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

(b) REQUIRED ASSESSMENTS.—In developing the four-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this title, and the options for implementing these changes and improvements.

(c) COMPONENTS OF STATE PLAN.—Consistent with the assessments described in subsection (b) each such plan shall—

(1) set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the four year period;

(2) describe the curriculum, equipment, and instrument that are being used by instruction personnel and indicate how current these elements are;

(3) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

(4) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

(5) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

(6) provide for the needs of persons with limited English proficiency (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965) or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

(7) describe how the special education needs of adult immigrants, the incarcerated, persons with handicaps, the chronic unemployed, the homeless, the disadvantaged, and minorities will be addresed;

(8) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

(9) describe the prograss it expects to make toward achieving the purposes of this title during the four-year period of the State Plan;

(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this title to such recipients;

(11) describe the methods proposed for the joint planning and coordination of programs carried out under this title with those conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational Educational Act of 1963, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965 and the Domestic Volunteer Service Act to assure maximum utilization of funds under these Acts and to avoid duplication of services;

(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Sesrvice Act and volunteers trained in programs carried out by section 374 of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees; and

(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this title will take into account the findings or program reviews and evaluations carried out pursuant to section 352.

SEC. 343. STATE APPLICATIONS.

(1) The State application submitted pursuant to section 341 shall provide assurances—

(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this title;

(2) that Federal funds made available under this title will be so used as to supplement the amount of State and local funds available for uses specified in this Act, and in no case to supplant each State and local funds;

(3) that the programs, services, and activities funded in accordance with the uses specified in section 322 are designed to expand or improve the quality of adult education programs including programs for educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this title); and

(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

Subpart 4—Evaluation and State Plan Amendments

SEC. 351. STATE PLAN AMENDMENTS.

(a) TIMELY SUBMISSION.—When changes are necessary in the State plan, a State shall submit by July 1 preceding the fiscal year of operation, amendments to its State plan.

(b) CONSIDERATION BY SECRETARY.—The Secretary shall approve, within 60 days of submission, the State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this title. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

SEC. 352. EVALUATION.

In order to assist grant recipients receiving funds under this title to plan and operate the best possible programs of adult education, each State agency during the four-year period of the State plan shall—

(1) arrange a program review of grant recipients each year. During the first year of reauthorization at least 15 percent of the grant recipients shall be evaluated; during the second year, at least 20 percent shall be evaluated; and during subsequent years, at least 25 percent of the grant recipients within the State receiving funds under this title shall be evaluated. These evaluations shall review—

(A) the planning and content of the program;

(B) the curriculum, qualifications of all personnel, equipment, and instructional materials;

(C) the effect of the program on the subsequent work experience of graduates; and

(D) other such factors as are determined to affect program operation; and

(2) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the exent to which grant recipients have improved their capacity to achieve the purposes of this title as set forth in section 311.

Subpart 5—Demonstration Projects

SEC. 353. SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING.

(a) USE OF FUNDS.—Of the funds allotted to a State under section 312 for a fiscal year, not less than 10 prcent shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this title, which will be coordinated with other programs funded under this title and which—

(A) involve the use of innovative methods, including methods for educating persons with handicaps, the homeless, and persons of limited English-speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or

(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English-speaking ability, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

(b) APPLICATIONS.—Applications for funds under subsection (a) shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.

Subpart 6—Federal Share; Federal Administrative Responsibilities

SEC. 361. PAYMENTS

(a) FEDERAL SHARE.—The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 percent of the cost of carrying out the State's programs for fiscal year 1988, 87 percent for fiscal year 1989, 83 percent for fiscal year 1990, and 80 percent for fiscal years 1991, 1992, and 1993, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 percent.

(b) MAINTENANCE OF EFFORT.—(1) No payment shall be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year.

(2) The Secretary may waive the requirements of this subsection for one fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

PART C—NATIONAL PROGRAMS

SEC. 372. ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION.

The Secretary shall carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this part, the Secretary may enter into interagency agreements with the Secretary of Health and Human Services to *conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.*

SEC. 373. STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES.

(a) FEDERAL ASSISTANCE.—The Secretary shall assist States in evaluating the status and progress of adult education in achieving the purposes of this Act, and activities designed to provide such assistance will include, but are not limited to—

(1) an analysis of State plans and of the findings of evaluations conducted pursuant to section 352, with suggestions to State agencies for improvements in planning or program operation; and

(2) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

(b) DETERMINATION OF LITERACY.—The Secretary, in consultation with the Congress shall, within the first two years after enactment of the Adult Education Amendments of 1987, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

(c) REPORT ON STATUS OF LITERACY AND ADULT EDUCATION.—Subsequent to the determination of literacy and the number of illiterate individuals required in subsection (b), the Secretary shall submit a report every four years to the President and to the Congress on the status of literacy and adult education in the Nation.

(d) EVALUATION REPORT.—Three years after the date of enactment of the Adult Education Amendments of 1987, and thereafter in conjunction with the report under subsection (c), the Secretary shall report to the Congress on the results of program evaluations required under this title and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this title, together with such recommendations as the Secretary may wish to make.

SEC. 374. ADULT LITERACY VOLUNTEER TRAINING.

The Secretary shall carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

SEC. 375. JOINT STUDY OF SERVICES.

The Secretary of Education, in conjunction with the Secretary of Labor and the Secretary of Health and Human Services, shall con-

duct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and shall jointly act to facilitate interagency coordination. The Secretary shall ensure the local and State officials involved in the delivery of adult education and literacy programs are involved in the study under this section. Not later than 24 months after the date of enactment of the Adult Education Amendments of 1987, a joint report shall be submitted to the Congress describing the findings of the study.

SEC. 376. NATIONAL RESEARCH ACTIVITIES.

(a) Approved Activities.—The Secretary shall, with funds set aside under section 313(e), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

(b) Research Concerning Special Needs.—In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 405 of the General Education Provisions Act, the Assistant Secretary may, with funds available under that section with funds available under other Federal programs, or with funds set aside under section 312(e) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations.

SEC. 377. LIMITATION.

No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

SEC. 378. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

(a) Use of Funds.—The Secretary shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluation thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) IMPROVEMENT OF EDUCATIONAL OPPORTUNITY.—The Secretary is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) EVALUATION AND DISSEMINATION.—The Secretary is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

(d) APPLICATIONS.—Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section there are authorized to be appro-

priated $8,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

SEC. 379. NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION.

(a) APPOINTMENT.—The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the "Council").

(b) MEMBERSHIP.—The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Secretary and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year.

(c) DUTIES.—The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

(d) REPORTS.—The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with comments and recommendations. The Secretary of Education shall coordinate the work of the Council with that of other related advisory councils.

ACT OF SEPTEMBER 23, 1950

AN ACT Relating to the construction of school facilities in areas affected by Federal activities, and for other purposes.

* * * * * * *

ESTABLISHMENT OF PRIORITIES

SEC. 3. The Commissioner shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) shall be not later that September 30, [1988.] *1993.* The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C) shall be considered applications for purposes of the preceding sentence.

* * * * * * *

DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) * * *

* * * * * * *

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this Act, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5(a), the base year shall in no event be later than the regular school year **[**1978–1979;**]** *1988–1989;* and

* * * * * * *

SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

SEC. 16. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to October 1, **[***1988,***]** *1993,* has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

* * * * * * *

LIMITATION ON PAYMENTS

SEC. 18. Notwithstanding any other provision of this Act, amounts appropriated for the purposes of this Act for fiscal year 1988 may not exceed $24,000,000.

GENERAL EDUCATION PROVISIONS ACT

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Part A—Education Division of the Department of Health, Education, and Welfare

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OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 405. (a) * * *

* * * * * * *

(e)(1) In addition to the other responsibilities of the Office under this section, the Office shall carry out, by grant or cooperative agreement with a nonprofit educational organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communication, and other subjects and skills. Such a National Assessment shall—

(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics, *including data on the performance in these areas of students served by chapter 1 of the School Improvement Act of 1987;*

* * * * * * *

(f)(1) There are authorized to be appropriated to carry out this section [and section 406] of this Act, $72,231,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

* * * * * * *

NATIONAL CENTER FOR EDUCATION STATISTICS

Sec. 406. (a) *(1)* There is established, with the Office of Educational Research and Improvement, a *National* Center for Education Statistics (hereafter in this section referred to as the "Center"). [The Center shall be headed by a Director who shall be appointed by the Assistant Secretary in accordance with the provisions of title 5, United States Code, relating to appointments in the competitive service.] *The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education, in the most general and comprehensive sense of the word, particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.*

(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substantial experience and knowledge of programs encompassed by the National Center. The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall serve

for terms of 4 years, except that in the case of the initial appointment, the Commissioner shall serve until June 21, 1991.

(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for International Education Statistics who shall promote United States participation in international research on educational statistics. The Commissioner shall appoint such other Associate Commissioners as may be necessary and appropriate.

(b) The purpose of the Center shall be to collect, and analyze *and disseminate statistics and other data related to education in the United States and in other nations. The Center shall*—

(1) * * *

* * * * * * *

(3) assist State and local educational agencies, including State agencies responsible for postsecondary education, in improving and automating their statistical and data collection activities *(and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center),*

* * * * * * *

(c)(1) There shall be an Advisory Council on Education Statistics which shall be composed of 7 *public* members appointed by the Secretary and such ex officio members as are listed in subparagraph (2). Not more than 4 of the appointed members of the Council may be members of the same political party.

(2) The ex officio members of the Council shall be—

(A) * * *

(B) the Director of the Census, [and]

(C) the Commissioner of Labor Statistics[.] *; and*

(D) Commissioner of Education Statistics.

* * * * * * *

(4) The [Assistant Secretary] *Commissioner of Education Statistics* shall serve as the non-voting presiding officer of the Council.

* * * * * * *

(7) The Council shall review general policies for the operation of the Center and shall be responsible for [establishing] *advising on* standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.

(d)(1) The [Secretary] *Commissioner* shall, not later than June 1 of each year, submit to the Congress an annual report which—

(A) * * *

* * * * * * *

(C) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States[; and

(D) clearly sets forth areas of critical need for additional qualified education personnel in local education agencies and, after discussion and review by the Advisory Council on Education Statistics, identifies priorities within projected areas of need, and includes recommendations of the Council with respect to the most effective manner in which the Nation and the Federal Government may address such needs.].

(2) The Secretary may submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth his views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.

[(2)] *(3)* The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

(4)(A) Except as provided in this section, no person may—

(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

(B) no department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E).

(C) Whoever, being or have been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), publishes or communicates any individually identifiable information (as defined in subparagraph (E), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.

(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

(E) For the purposes of this section—

(i) the term "individually identifiable information" means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

(ii) the term "report" means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

(iii) as used in clause (i), the term "persons" does not include States, local educational agencies, or schools.

(e)(1) The Center is authorized to furnish transcripts or copies of tables and other statistical records [of the Office] and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals. The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Human Resources and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Secretary: *Provided,* That the purpose of such projects are otherwise authorized by law.

* * * * * * *

(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts or other financial arrangements. Contracts or financial arrangements may include sole source contracts, with States, organizations performing international studies, and associations that are nationally representative of a wide variety of State or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever requried to do so by the President or

either House of Congress or when considered appropriate by the Commissioner.

(6) The Commissioner is authorized to use information collected by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, administrators, teachers, students, and general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

[(f) Funds to carry out this section are authorized by section 405(g) of this Act.]

[*(f)(1) There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $25,809,000 for fiscal year 1988, $32,823,000 for fiscal year 1989, $37,323,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, and 1993.*

(2) The Commissioner may contract with States to carry out subsection (i). Such contracts may not exceed 33.5 percent of the costs to the State of compliance with such subsection.

(g) *(1)* In addition to its other responsibilities, the Center shall collect uniform data from the States on the financing of elementary and secondary education. Each State receiving funds under the Education Consolidation and Improvement Act of 1981 shall cooperate with the Center in this effort.

(2) In addition to other duties of the Commissioner under this section, it shall be the responsbiility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates. results of education, supply and demand of teachers and scholl personnel, financial aid and on such other education indicators as the Commissioner determines to be appropriate.

(3) There is established within the Center a special study panel to make recommendations concerning the termination of education indicators for study and report under paragraph (2). The panel shall be appointed by the Commissioner. Not more than 18 months after the date of enactment of the School Improvement Act of 1987, the panel shall submit a report to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.

(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator.

(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the School Improvement Act of 1987, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

(C) On the second Tuesday after Labor Day of 1988 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.

(5) As of March 30, 1990, and every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Act Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study.

(6) On April 1, 1992, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.

(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school concerning educational progress, intellectual development, and economic prosperity. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1988, and every 8 years thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

* * * * * * *

(i)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the "System"). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policymaking at the Federal, State, and local level.

(2) Each State that desires to participate in the system shall—

(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

(i) schools and school districts;

(i) students and enrollments, including special populations;

(iii) teachers and school administrators;

(iv) the financing of elementary and secondary education;

(v) student outcomes, including scores on standardized tests and other measures of educational achievement; and

(vi) the progress of education reform in the States and the Nation; and

(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

(3) To establish and maintain the system, the Commissioner—

(A) shall—

(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data; and

(ii) to the extent possible; implement standard definitions and data collection procedures; and

(B) may—

(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and

(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.

* * * * * * *

[PART E.—ENFORCEMENT

[EDUCATION APPEAL BOARD

[SEC. 451. (a) The Commissioner shall establish in the Office of Education an Education Appeal Board (hereinafter in this part referred to as the "Board") the functions of which shall be to conduct—

[(1) audit appeal hearings pursuant to section 452 of this Act,

[(1) audit appeal hearings pursuant to section 452 of this Act,

[(3) cease and desist hearings pursuant to section 454 of this Act, and

[(4) other proceedings designated by the Commissioner.

[(b) The members of the Board shall be designated by the Secretary, in consultation with the Assistant Secretary for Education and the Commissioner, and may include individuals who are officers or employees of the United States, as well as individuals who are not full-time employees of the Federal Government.

[(c) The Board shall be composed of not less than fifteen nor more than thirty members, of whom no more than one-third shall be officers or employees of the Department. The Secretary shall designate one of the members of the Board to be the Chairman.

[(d) For the purposes of conducting hearings as provided in subsection (a) the Chairman may appoint hearing panels of not less than three members of the Board, or the Chairman may designate the entire Board to sit as a panel for any case or class of cases. On any such panel—

[(1) the majority of members shall not be individuals in the full-time employment of the Federal Government,

[(2) the membership shall not include any individual who is a party to, or has any responsibility for, any particular matter assigned to that panel, and

[(3) the Chairman of the Board shall designate one member of each such panel to be the presiding officer.

[(e) The proceedings of the Board shall be conducted according to such rules as the Commissioner shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557 respecting—

[(1) the receipt of oral or written testimony,

[(2) notice of the issues to be considered,

[(3) the right to counsel,

[(4) intervention of third parties,

[(5) transcripts of proceedings, and

[(6) such other matters as may be necessary to carry out the functions of the Board.

[(f) If there has been established within the Department of Health, Education, and Welfare an appeal board which the Commissioner determines is capable of carrying out the functions of the Board established under this section, he may, with the approval of the Secretary, designate such Department appeal board to carry out the functions of this section.

[AUDIT DETERMINATIONS

[SEC. 452. (a) Whenever the Commissioner determines that an expenditure not allowable under a program listed in section 435(a) of this title, or conducted under title VI and title VII of the Elementary and Secondary Education Act of 1965, or under the Emergency School Aid Act, has been made by a State or by a local educational agency, or that a State or local educational agency has otherwise failed to discharge its obligation to account for funds under any such program, the Commissioner shall give such State or local educational agency written notice of a final audit determination, and he shall at the same time notify such State or agency of its right to have such determination reviewed by the Board.

[(b) A State or a local educational agency that has received written notice of a final audit determination and that desires to have such determination reviewed by the Board shall submit to the Board an application for review not later than thirty days after receipt of notification of the final audit determination. The application for review shall be in the form and contain the information specified by the Board. The Board shall return to the Commissioner for such action as he deems appropriate any final audit determination which, in the judgment of the Board, contains insufficient detail to identify with particularity those expenditures which are not allowable. Unless the Board determines that a final audit determination lacks sufficient detail, the burden shall be upon the State or local educational agency to demonstrate the allowability of expenditures disallowed in the final audit determination.

[(c) When a State or a local educational agency has submitted an application for review with respect to a final audit determination, no action shall be taken by the Commissioner to collect the amount determined to be owing until the Board has issued a final decision upholding the audit determination as to all or any part of such amount. The filing of such an application shall not affect the authority of the Commissioner to take any other adverse action against such State or agency under this part.

[(d) A decision of the Board with respect to an application for review under this section shall become final unless within sixty days following receipt by the State or by the local educational agency of written notice of the decision—

[(1) the Commissioner for good cause shown, modified or sets aside the decision, in whole or in part, in which case the decision shall become final sixty days after such action by the Commissioner, or

[(2) the State or the local educational agency files petition for judicial review as provided in section 455 of this Act.

[(e) A final audit determination by the Commissioner under subsection (a) with respect to which review has not been requested pursuant to subsection (b), or a final decision of the Board under this section upholding a final audit determination against a State or a local educational agency shall establish the amount of the audit determination as a claim of the United States which the State or the local educational agency shall be required to pay to the United States and which may be collected by the Commissioner in accordance with the Federal Claims Collection Act of 1966.

[(f)(1) Notwithstanding any other provision of law, the Commissioner may, subject to the notice requirements of paragraph (2), compromise any claim established under this section for which the initial determination was found to be not in excess of $50,000, where the Commissioner determines that (A) the collection of any or all of the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the claim has been corrected and will not recur.

[(2) Not less than forty-five days prior to the exercise of the authority to compromise a claim pursuant to paragraph (1), the Commissioner shall publish in the Federal Register a notice of his intention to do so. Such notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

[(g) No State and no local educational agency shall be liable to refund any amount expended under an applicable program which is determined to be unauthorized by law if that expenditure was made more than five years before that State or local educational agency is given the notice required by subsection (a).

[(h) The Secretary shall employ, assign, or transfer sufficient professional personnel to ensure that all matters brought before the Board may be dealt with in a timely manner.

[WITHHOLDINGS

[SEC. 453. (a) Whenever the Commissioner has reason to believe that any recipient of funds under any applicable program (other than a program to which regulations promulgate under section 497A of the Higher Education Act of 1965 apply), has failed to comply substantially with any requirement of law applicable to such funds, he shall notify such recipient in writing of his intention to withhold, in whole or in part, further payments under such program, including payments for State or local administrative costs, until he is satisfied that the recipient no longer fails to comply with such assurances or other terms.

[(b) The notification required under subsection (a) shall state (1) the facts upon which the Commissioner has based his belief and (2) a notice of opportunity for a hearing to be held on a date at least thirty days after the notification has been sent to the recipient. The hearing shall be held before the Board and shall be conducted in accordance with rules prescribed pursuant to section 451(e) of this Act.

[(c) Pending the outcome of any proceeding initiated under this section, the Commissioner may suspend payments to such a recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

[(d) The decision of the Board in any proceeding brought under this section shall become final unless within sixty days following receipt by the recipient of written notice of the decision—

[(1) the Commissioner for good cause shown, modifies, or sets aside the decision in whole or in part, in which case the decision as modified shall become final sixty days after such action by the Commissioner, or

[(2) the recipient files a petition for judicial review as provided in section 455 of this Act.

[CEASE AND DESIST ORDERS

[Sec. 454. (a) Whenever the Commissioner has reason to believe that any State or any local educational agency that receives funds under any applicable program has failed to comply substantially with any requirement of law applicable to such funds in lieu of proceeding under section 453 of this Act, the Commissioner may issue and cause to be served upon such State or upon such local educational agency a complaint (1) stating the charges upon which his belief is based, and (2) containing a notice of a hearing to be held before the Board on a date at least thirty days after the service of that complaint.

[(b) The State or the local educational agency upon which such a complaint has been served shall have the right to appear before the Board on the date specified and to show cause why an order should not be entered by the Board requiring such State or such local educational agency to cease and desist from the violation of law charged in the complaint.

[(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Board. If upon that hearing the Board shall be of the opinion that the State or the local educational agency is in violation of any requirement of law as charged in the complaint, it shall make a report in writing stating its findings of fact and shall issue and cause to be served upon the State or the local educational agency an order requiring the State or the local educational agency to cease and desist from the practice, policy, or procedure which resulted in such violation.

[(d) The report and order of the Board shall become final on the sixtieth day following the date upon which the order of the Board was served upon the State or the local educational agency unless before that day the State or local educational agency files a petition for judicial review as provided in section 455 of this Act.

[(e) A final order of the Board under this section may be enforced, as determined by the Commissioner, by—

[(1) the withholding of any portion of the amount payable, including amounts payable for administrative costs, under the affected program to the State or the local educational agency against which the final order has been issued, or

[(2) the Commissioner certifying the facts to the Attorney General whose duty it shall be to cause appropriate proceeding to be brought for the enforcement of the order.'

[JUDICIAL REVIEW

[SEC. 455. (a) Any recipient of funds under an applicable program that would be adversely affected by any action under section 452, 453, or 454 of this Act, and any State entitled to receive funds under a program listed in section 435(a) of this title whose application therefor has been disapproved by the Commissioner, shall be entitled to judicial review of such action in accordance with the provision of this section.

[(b) Any State, local educational agency, or other recipient entitled to judicial review under subsection (a) that desires such review of any action by the Commissioner or the Board qualifying for review under this section shall, within sixty days of that action, file with the United States Court of Appeals for the circuit in which that State, local educational agency, or other recipient is located, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

[(c) The findings of fact by the Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(d) The court shall have jurisdiction to affirm the action of the Board or the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[USE OF RECOVERED FUNDS

[SEC. 456. (a) Whenever the Commissioner has recovered funds following a final audit determination with respect to any applicable program, he may consider those funds to be additional funds available for that program and may arrange to repay to the State or the local agency affected by that action not to exceed 75 percent of those funds upon his determination that—

[(1) the practices or procedures of the State or local agency that resulted in the audit determination have been corrected, and that the State or the local agency is in all other respects in compliance with the requirement of that program;

[(2) the State or the local agency has submitted to the Commissioner a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

[(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally granted.

[(b) Any payments by the Commissioner under this section shall be subject to such other conditions as the Commissioner deems necessary to accomplish the purposes of the affected programs, including—

[(1) the submission of periodic reports on the use of funds provided under this section; and

[(2) consultation by the State or local agency with parents or representatives of the population that will benefit from the payments.

[(c) Notwithstanding any other provisions of law, the Commissioner may authorize amounts made available under this section to remain available for expenditure, subject to such conditions as he deems appropriate, for up to three fiscal years following the fiscal year in which the audit determination referred to in subsection (a) was made.

[(d) At least thirty days prior to entering into an arrangement under this section, the Commissioner shall publish in the Federal Register a notice of his intent to do so and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least thirty days to submit comments to the Commissioner regarding the proposed arrangement.]

PART E—ENFORCEMENT

SEC. 451. OFFICE OF ADMINISTRATIVE LAW JUDGES.

(a) The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this part referred to as the "Office") which shall conduct—

(1) recovery of funds hearings pursuant to section 452 of this Act,

(2) withholding hearings pursuant to section 455 of this Act,

(3) cease and desist hearings pursuant to section 456 of this Act, and

(4) other proceedings designated by the Secretary.

(b) The administrative law judges (hereinafter "judges") of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5, United States Code.

(c) The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5, United States Code. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local education agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

(d) For the purposes of conducting hearings described in subsection (a), the chief judge shall assign a judge to each case or class of cases. With respect to any case, the judge shall not have been a

party to, or have had any responsibility for, any particular matter assigned to that judge.

(e) The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 452.

(f)(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557.

(2) The provisions of title 5, United States Code, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

(g)(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

(A) produce relevant documents;

(B) answer written interrogatories that inquire into relevent matters; and

(C) have depositions taken.

The judge shall set a time limit on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

(2) In order to carry out the provisions of subsections (f)(1) and (g)(1), the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoenas as if it pertained to a proceeding before that court.

(h) The Secretary shall establish a process for the voluntary medication of disputes pending before the Office. The mediator shall be agreed to be all parties involved in medition and shall be independent of the parties to the dispute.

(i) The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brough before the Office may be dealt with in a timely manner.

SEC. 452. RECOVERY OF FUNDS.

(a) (1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipent of its right to have that decision reviewed by the Office and of its right to request mediation.

(2) In a preliminary departmental decision, the Secretary shall have the burden of stating a prima facie case for the recovery of funds. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report,

a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the bais of section 453.

(3) For the purpose of paragrph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

(b)(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall sumit to the Office an application for review not later than 30 days after receipt of notice of the preliminary department decision. The application shall be in the form and contain the information specified by the Office. The Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which, the Office determines does not meet the requirements of subsection (a)(2).

(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that States recipient has—

(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within ten days of the date that the State recipient in a State administered program received such written notice; and

(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a).

(c) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d)(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (e).

(2) If a recipient files a timely petition for judicial review under section 458, the Secretary shall take no collection action until judicial review is completed.

(3) The filling of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this part against the recipient.

(e) A decision of the Office regarding an application for review of a preliminary department decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

(2) remands the decision to the Office.

(f) The Secretary shall public decisions that have become final agency action under subsection (e) in the Federal Register or in another appropriate publication within 60 days.

(g) The amount of a preliminary departmental decision under subsection (a) for which review has not been requested in accordance with subsection (b), and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (e), may be collected by the Secretary in accordance with chapter 37 of title 31, United States Code.

(h)(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(i) No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than five years before the recipient received written notice of a preliminary departmental decision.

SEC. 453. MEASURE OF RECOVERY.

(a)(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award.

(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

(b)(1) In no case shall a State or local educational agency that is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly

for funds, be required to return funds with respect to a violation for which mitigating circumstances exist, as described in paragraph (2). The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

(B) made an expenditure or engaged in a practice after—

(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

(ii) the Department official did not respond within 90 days of receipt by the Department of such request; or

(C) actually and reasonably relied upon a judicial decree issued to the recipient.

(3) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

(4) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

(A) the written request for guidance accurately describes the proposed expenditure or practice and includes the facts necessary for a determination of its legality; and

(B) the written request for guidance contains a certification by the chief legal officer of the State educational agency that such officer has examined the proposed expenditure or practice and believes the proposed expenditure or practice is permissable under State and Federal law; and

(C) the State or local educational agency has no reason to believe that the proposed expenditure or practice is not permissable.

(5) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (4), that reflect significant interpretations of applicable law or policy.

(c) Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

SEC. 454. REMEDIES FOR EXISTING VIOLATIONS.

(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

(1) withhold further payments under that program, as authorized by section 455;

(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 456;

(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 457(a); or

(4) take any other action authorized by law with respect to the recipient.

(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 452.

SEC. 455. WITHHOLDING.

(a) In accordance with section 454, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

(b) Before withholding payments, the Secretary shall notify the recipient, in writing, of—

(1) the intent to withhold payments;

(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

(c) The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 451 of this Act.

(d) Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient after such recipient has been given reasonable notice and an opportunity to show cause why future payments should not be suspended.

(e) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(f) The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

(2) remands the decision of the Office.

SEC. 456. CEASE AND DESIST ORDERS.

(a) In accordance with section 454, the Secretary may issue to a recipient under an applicable program a complaint which—

(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

(b) The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office re-

quiring the recipient to cease and desist from the violation of law charged in the complaint.

(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

(1) make a report in writing stating its findings of fact; and

(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

(d) The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

(e) The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

SEC. 457. COMPLIANCE AGREEMENTS.

(a) In accordance with section 454, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

(b)(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not genuinely feasible until a future date.

(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

(c) A compliance agreement under this section shall contain—

(1) an expiration date not later than three years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

(2) those terms and conditions with which the recipient must comply until it is in full compliance.

(d) If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

SEC. 458. JUDICIAL REVIEW.

(a) Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 452, 455, or 456 of this Act, and any State entitled to receive funds under a program listed in section 435(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provision of this section. The Secretary may not take any action on the basis of a final agency decision until judicial review is completed.

(b) A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

(c) The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

SEC. 459. USE OF RECOVERED FUNDS.

(a) Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program;

(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

(b) Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers

necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the fiscal year in which the preliminary departmental decision under section 452(a) was issued.

(d) At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

SEC. 460. DEFINITIONS.

For purposes of this Act, the following terms have the following meanings:

(1) The term "recipient" means a recipient of a grant or cooperative agreement under an applicable program.

(2) The term "applicable program" excludes programs authorized by the Higher Education Act of 1965 and assistance programs provided under the Act of September 30, 1950 (P.L. 874, 81st Congress), and the Act of September 23, 1950 (P.L. 815, 81st Congress).

SEC. 5315 of Title 5, UNITED STATES CODE

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

* * * * * * *

Commissioner, National Center for Education Statistics.

ADDITIONAL VIEWS OF REPRESENTATIVES FAWELL AND BALLENGER

The School Improvement Act reaffirms a strong federal commitment for elementary and secondary education. The bill makes several improvements in major elementary and secondary education programs, particularly in Chapter 1 compensatory education, math and science education, and bilingual education.

Chapter 1 is the centerpiece of federal elementary and secondary education for improving the basic skill needs of educational disadvantaged children. H.R. 5 makes needed improvements in this program to help these children attain grade-level proficiency.

One major improvement is a new provision which allows local school districts to establish innovative projects for enhancing Chapter 1 services. A school district will not be able to use up to 5 percent of its Chapter 1 allocation for various innovative activities. These activities include offering incentive payments to schools with successful Chapter 1 programs, training regular classroom teachers to work with Chapter 1 children, and fostering active community and private-sector involvement in Chapter 1.

Schools will not be accountable for their Chapter 1 programs and be required to demonstrate student achievement. Schools that have declining Chapter 1 achievement must turn to the local education agency (LEA) for technical assistance. If there is not improvement in Chapter 1 achievement rates, the state educational agency (SEA) must intervene and provide the technical assistance to reverse the declining achievement trend. This provision ensures that schools will be accountable for addressing the educational needs of Chapter 1 students.

Parental involvement is also critical to successful academic achievement. H.R. 5 recognizes the strategic role parents have in the education of their children. School districts must implement activities include training parents to work with their children at home, encouraging school personnel to work and consult with parents, and establishing parent advisory councils.

Targeting was also an issue of serious debate on Chapter 1. The committee rightfully recognizes that a correlation exists between low academic achievement and areas with high levels of poverty. The first $400 million of new Chapter 1 appropriations will be targeted to school districts with high concentrations of poverty.

The committee is commended for essentially retaining the Chapter 2 block grant in its present form. By continuing the current state formula allocation, whereby 80 percent of the funds is distributed to the LEAs and 20 percent to the SEA, state and local authorities will maintain the much-needed discretion to implement programs that respond to new challenges in education.

The committee wisely did not consider turning back the clock to use Chapter 2 funds for categorical education programs. Instead, the committee maintains the program's flexibility by allowing the use of funds for at-risk and high-cost children, effective schools projects, instructional and educational materials, personnel enhancement, and special projects, including gifted and talented education.

The School Improvement Act provides a teacher training program in math and science education (Title II of the Education for Economic Security Act) which should produce successful results. The current program, established in 1984, has been ineffective because of hampering set-aside and reporting requirements. The bill streamlines many of these reporting requirements and attempts to channel most of the appropriations to the local level.

One of the problems, however, of driving funds to the local level is that too many school districts receive small grants. This is a particularly true of this program, which has never received an appropriations in excess of $100 million. The committee responded to this concern by accepting an amendment which requires school districts that receive grants of less than $3,000 to form a consortium with other school districts or higher education institutions. An exemption from this requirement is provided for schools is rural and sparsely—populated areas.

Although the consortium requirement is an improvement, a better approach is to award teacher training funds to school districts on a competitive grants basis if the Title II appropriations is less than $150 million. The rationale for a competitive grants program is sound. A $150 million appropriations allocated to LEAs on a formula basis results in grants of less than $1,000 to 33 percent of the countrys school districts and grants of less than $5,000 to 71 percent of the country's school districts. A competitive grants competition ensures that all of the Title II funds are used efficiently and for effective teacher training purposes.

The committee also accepted an amendment to increase the allocation for the Secretary's discretionary fund for national programs from three to five percent. Because Title II is a relatively new program, direction at the federal level to determine what works in math and science teacher training is critical. The Secretary would be required to inform state and local school authorities of exemplary teacher training programs conducted at the national level.

The changes made in bilingual education are also a step in the right direction toward recognizing that native-language instruction is not the exclusive method of instruction for teaching limited-English proficient (LEP) children. H.R. 5 allows up to 75 percent of new appropriations in bilingual education to be used for special alternative instruction programs, usually English as a Second Language (ESL) and English immersion.

Although this change moves in the right direction, it does not go far enough. A better approach is found in legislation proposed by the Secretary of Education which would lift the 4 percent cap under Part A programs for special alternative instruction. This cap effectively earmarks an overwhelming majority of Part A funds for transitional bilingual education programs in native-language instruction, although the research does not demonstrate that transititional instruction is more effective than alternative instruction in teaching LEP children.

It has been demonstrated, however, that many school districts want to provide special alternative instruction to LEP children because they believe this approach best suits their bilingual needs. In 1985, the first year special alternative instruction funds were available, one-fourth of the applications for federal funding were for special alternative instruction programs. 25 percent of the applications were for 4 percent of Part A funds.

In hearings before the Elementary and Secondary Education Subcommittee this year, the director of Prince George's County Public Schools ESOL program, Lillian Falk, testified in support of giving local school districts the flexibility to determine which method of instruction best suits the need of LEP children. Ms. Falk convincingly showed that Prince George's County, which must educate LEP children from 126 different language backgrounds, cannot use transitional bilingual instruction in its programs. Accordingly to Ms. Falk, the county's ESOL approach "provides the very diverse students we are serving with the most efficient, most rapid way of preparing them to understand, speak, read, and write English."

Congress should recognize what is desired at the local school level and eliminate the set-aside in Part A. Local school districts are in the best position to determine the needs of its LEP children.

Finally, the committee bill has the effect of eliminating funding for the National School Recognition Program. This program is currently funded under the National Diffusion Network (NDN). An amendment approved in subcommittee removed this program from NDN. By eliminating this activity from NDN, the Secretary of Education will no longer be able to allocate funding for the National School Recognition Program.

This National School Recognition Program is one of the most popular education programs administered by the federal government. Its purpose is to identify and call attention to a national group of schools that are unusually successful in meeting the educational needs for their students.

During the five-year history of this program, 800 elementary and secondary public and private schools have been recognized for outstanding achievement. Schools that qualify for recognition have met certain criteria, such as scoring in the 75th percentile or above on standardized tests in reading and mathematics for the last three years, or showing dramatic improvement toward that goal in the past three years. Schools are also judged on the basis of six indicators: school organization, building leadership, instructional program and curriculum, instruction, school climate, and community relations.

America's good schools know no geographic or class barriers. They exist in small towns or large cities and serve both affluent and low-income communities. They share the common bond of having goals for success and achieving these goals.

The National School Recognition Program has served to focus national attention on school that have reached their goals. The program itself has inspired other schools across the nation to set similar goals and strive for recognition. The program is worthy and should continue.

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